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1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK  
-----x

18-CR-681 (WFK)

3 UNITED STATES OF AMERICA,

United States Courthouse  
4 Plaintiff, Brooklyn, New York

5 -against-

October 25, 2019  
6 JEAN BOUSTANI,  
9:30 a.m.

7 Defendant.  
-----x

9 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL  
10 BEFORE THE HONORABLE WILLIAM F. KUNTZ, II  
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES

13 For the Government: UNITED STATES ATTORNEY'S OFFICE  
14 Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201  
15 BY: MARK E. BINI  
HIRAL D. MEHTA  
MARGARET MOESER  
16 Assistant United States Attorneys

17 For the Defendant: WILLKIE FARR & GALLAGHER LLP  
18 787 Seventh Avenue  
New York, New York 10019-6099  
19 BY: MICHAEL STEVEN SCHACHTER, ESQ.  
CASEY ELLEN DONNELLY, ESQ.  
20 PHILIP FRANK DISANTO, ESQ.  
RANDALL WADE JACKSON  
21

22 Court Reporter: LINDA D. DANELECZYK, RPR, CSR, CCR  
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24

25 Proceedings recorded by mechanical stenography. Transcript  
produced by computer-aided transcription.

LINDA D. DANELECZYK, RPR, CSR, CCR  
Official Court Reporter

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1 (In open court; Jury not present.)

2 THE COURTROOM DEPUTY: All rise.

3 The Honorable William F. Kuntz, II is now presiding.

4 Criminal cause for Trial, Docket Number 18-CR-681, USA versus

5 Boustani.

6 Counsel, please state your appearances for the  
7 record.

8 MR. BINI: Mark Bini, Hiral Mehta, Margaret Moeser,  
9 Lillian DiNardo, and Special Agent Angela Tassone for the  
10 United States. Good morning, Your Honor.

11 THE COURT: Good morning, Counsel.

12 MR. MEHTA: Good morning, Your Honor.

13 THE COURT: You may be seated. We have your  
14 appearances.

15 Ladies and gentlemen, in the public, you may be  
16 seated as well.

17 MR. JACKSON: Good morning, Your Honor. Randall  
18 Jackson on behalf of Mr. Boustani.

19 THE COURT: Good morning. You may be seated,  
20 Mr. Jackson.

21 MR. SCHACHTER: Good morning, Your Honor. Michael  
22 Schachter on behalf of Mr. Boustani.

23 THE COURT: Good morning, Mr. Boustani. Welcome  
24 back.

25 MR. BOUSTANI: Good morning, Your Honor.

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1 THE COURT: You may be seated.

2 MR. BOUSTANI: Thank you, Your Honor.

3 MS. DONNELLY: Good morning, Your Honor. Casey  
4 Donnelly on behalf of Mr. Boustani.

5 THE COURT: Good morning, Ms. Donnelly.

6 MR. DISANTO: Good morning, Your Honor. Philip  
7 DiSanto on behalf of Mr. Boustani.

8 THE COURT: Good morning. You may be seated.

9 MR. DISANTO: Thank you.

10 MR. MCLEOD: Good morning, Your Honor. Ray McLeod  
11 on behalf of Mr. Boustani.

12 THE COURT: Good morning, sir. You may be seated.

13 All right. Do we have any procedural issues to  
14 address before we bring in the jury?

15 MR. BINI: No, Your Honor.

16 One-- actually one question, which is at this time  
17 when the jury comes in, Trial Attorney Margaret Moeser will  
18 seek to admit a number of certified business records and then  
19 we'll call or next witness.

20 May she take the podium in order to seek the  
21 admission of the business records?

22 THE COURT: Yes, of course.

23 MS. MOESER: Thank you, Your Honor.

24 MR. BINI: Okay. Thank you, Your Honor.

25 THE COURT: Thank you.

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1                   Are these, hopefully being admitted without  
2 opposition, or have you shared them with your adversary, or  
3 are we just going to wait and find out how they feel about it?

4                   MS. MOESER: Your Honor, we have shared them with  
5 our adversary. There are a few objections. We'll go through  
6 the ones that are not objected to first, and deal with the  
7 objections, Your Honor.

8                   THE COURT: At a sidebar?

9                   MS. MOESER: Yes, Your Honor.

10                  THE COURT: Okay. Thank you.

11                  Is that acceptable?

12                  MR. JACKSON: Yes, Your Honor.

13                  THE COURT: All right. Thank you.

14                  MR. BINI: Thank you.

15                  THE COURT: All right. Now, if there is nothing  
16 else, we'll now bring the jury in.

17                  MR. BINI: Thank you, Your Honor.

18                  THE COURT: Thank you.

19                  (Pause in proceedings.)

20                  (Jury enters the courtroom.)

21                  (Jury present.)

22                  THE COURT: Good morning, Ladies and Gentlemen of  
23 the Jury. Welcome back. Again, thank you for your  
24 promptness. For Friday, I assure you we'll really have a hard  
25 stop at 5:00 o'clock on Friday, so no worries. Please be

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1 seated.

2                   Ladies and Gentlemen the public, you may be seated  
3 as well.

4                   While you were waiting in jury room, Ladies and  
5 Gentlemen of the Jury, to, shall we say, expedite and make a  
6 bit more efficient the introduction of some documents, the  
7 lawyers and I, as my Texas partners used to say when I was in  
8 private practice, "conducted some business together."

9                   And we're now going to have Counsel introduce a  
10 number of agreed-upon certified business records and other  
11 documents. And then there are a few that, alas, we will have  
12 to have a sidebar on. But we are mindful of your time, as I  
13 told you we would be, and so some of the time you are spending  
14 in the jury room, we are helping to move matters along.

15                   So with that, Counsel, would you please state your  
16 name for the jury.

17                   MS. MOESER: Yes, sir.

18                   THE COURT: This is your first time up and then  
19 proceed with the documents.

20                   MS. MOESER: Good morning.

21                   THE JURY: Good morning.

22                   MS. MOESER: I'm Margaret Moeser, trial attorney for  
23 the Department of Justice.

24                   At this time, Your Honor, the Government would seek  
25 to offer a number of exhibits pursuant to Federal Rule of

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1 Evidence 8036 and 90211 and 18 U.S.C. 3505.

2 THE COURT: And just so the jury understands, tell  
3 them what 80 --

4 MS. MOESER: Your Honor, 8036 is the business  
5 records exception to hearsay; 90211 is the self-authenticated  
6 documents; and 18 U.S.C. 3505 are foreign business records.

7 THE COURT: Very good. So let's do them one at a  
8 time.

9 MS. MOESER: Yes, Your Honor. The Government seeks  
10 to admit Government's Exhibit Number 1.

11 THE COURT: Any objection?

12 MS. DONNELLY: No objection.

13 THE COURT: Admitted.

14 (Government Exhibit 1, was received in evidence.)

15 MS. MOESER: The Government seeks to admit  
16 Government's Exhibit Number 8.

17 THE COURT: Any objection?

18 MS. DONNELLY: No objection.

19 THE COURT: Admitted.

20 (Government Exhibit 8, was received in evidence.)

21 MS. MOESER: Government's Exhibit Number 10.

22 THE COURT: Any objection?

23 MS. DONNELLY: No objection.

24 THE COURT: Admitted.

25 (Government Exhibit 10, was received in evidence.)

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1 MS. MOESER: Government's Exhibit Number 29.

2 THE COURT: Any objection?

3 MS. DONNELLY: No objection.

4 THE COURT: Admitted.

5 (Government Exhibit 29, was received in evidence.)

6 MS. MOESER: Government's Exhibit Number 31.

7 THE COURT: Any objection?

8 MS. DONNELLY: No objection.

9 THE COURT: Admitted.

10 (Government Exhibit 31, was received in evidence.)

11 MS. MOESER: Government's Exhibit 37.

12 THE COURT: Any objection?

13 MS. DONNELLY: No objection.

14 THE COURT: Admitted.

15 (Government Exhibit 37, was received in evidence.)

16 MS. MOESER: Government's Exhibit Number 38.

17 THE COURT: Any objection?

18 MS. DONNELLY: No objection.

19 THE COURT: Admitted.

20 (Government Exhibit 38, was received in evidence.)

21 MS. MOESER: Government's Exhibit Number 48.

22 THE COURT: Any objection?

23 MS. DONNELLY: No objection.

24 THE COURT: Admitted.

25 (Government Exhibit 48, was received in evidence.)

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1 MS. MOESER: Government's Exhibit Number 50.

2 THE COURT: Any objection?

3 MS. DONNELLY: No objection.

4 THE COURT: Admitted.

5 (Government Exhibit 50, was received in evidence.)

6 MS. MOESER: Government's Exhibit 57.

7 THE COURT: Any objection?

8 MS. DONNELLY: No objection.

9 THE COURT: Admitted.

10 (Government Exhibit 57, was received in evidence.)

11 MS. MOESER: Government's Exhibit Number 58.

12 THE COURT: Any objection?

13 MS. DONNELLY: No objection.

14 THE COURT: Admitted.

15 (Government Exhibit 58, was received in evidence.)

16 MS. MOESER: Government's Exhibit Number 79.

17 THE COURT: Any objection?

18 MS. DONNELLY: No objection.

19 THE COURT: Admitted.

20 (Government Exhibit 79, was received in evidence.)

21 MS. MOESER: Government's Exhibit Number 115.

22 THE COURT: Any objection?

23 MS. DONNELLY: No objection.

24 THE COURT: Admitted.

25 (Government Exhibit 115, was received in evidence.)

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1 MS. MOESER: Government's Exhibit Number 117.

2 THE COURT: Any objection?

3 MS. DONNELLY: No objection.

4 THE COURT: Admitted.

5 (Government Exhibit 117, was received in evidence.)

6 MS. MOESER: Government's Exhibit Number 118.

7 THE COURT: Any objection?

8 MS. DONNELLY: No objection.

9 THE COURT: Admitted.

10 (Government Exhibit 118, was received in evidence.)

11 MS. MOESER: Government's Exhibit Number 119.

12 THE COURT: Any objection?

13 MS. DONNELLY: No objection.

14 THE COURT: Admitted.

15 (Government Exhibit 119, was received in evidence.)

16 MS. MOESER: Government's Exhibit Number 207.

17 THE COURT: Any objection?

18 MS. DONNELLY: No objection.

19 THE COURT: Admitted.

20 (Government Exhibit 207, was received in evidence.)

21 MS. MOESER: Government's Exhibit Number 211.

22 THE COURT: Any objection?

23 MS. DONNELLY: No objection.

24 THE COURT: Admitted.

25 (Government Exhibit 211, was received in evidence.)

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1 MS. MOESER: Government's Exhibit Number 212.

2 THE COURT: Any objection?

3 MS. DONNELLY: No objection.

4 THE COURT: Admitted.

5 (Government Exhibit 212, was received in evidence.)

6 MS. MOESER: Government's Exhibit Number 215.

7 THE COURT: Any objection?

8 MS. DONNELLY: No objection.

9 THE COURT: Admitted.

10 (Government Exhibit 215, was received in evidence.)

11 MS. MOESER: Government's Exhibit Number 216.

12 THE COURT: Any objection?

13 MS. DONNELLY: No objection.

14 THE COURT: Admitted.

15 (Government Exhibit 216, was received in evidence.)

16 MS. MOESER: Government's Exhibit Number 222.

17 THE COURT: Any objection?

18 MS. DONNELLY: No objection.

19 THE COURT: Admitted.

20 (Government Exhibit 222, was received in evidence.)

21 MS. MOESER: Government's Exhibit Number 241.

22 THE COURT: Any objection?

23 MS. DONNELLY: No objection.

24 THE COURT: Admitted.

25 (Government Exhibit 241, was received in evidence.)

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1 MS. MOESER: Government's Exhibit Number 249.

2 THE COURT: Any objection?

3 MS. DONNELLY: No objection.

4 THE COURT: Admitted.

5 (Government Exhibit 249, was received in evidence.)

6 MS. MOESER: Government's Exhibit Number 250.

7 THE COURT: Any objection?

8 MS. DONNELLY: No objection.

9 THE COURT: Admitted.

10 (Government Exhibit 250, was received in evidence.)

11 MS. MOESER: Government's Exhibit Number 251.

12 THE COURT: Any objection?

13 MS. DONNELLY: No objection.

14 THE COURT: Admitted.

15 (Government Exhibit 251, was received in evidence.)

16 MS. MOESER: Government's Exhibit Number 252.

17 THE COURT: Any objection?

18 MS. DONNELLY: No objection.

19 THE COURT: Admitted.

20 (Government Exhibit 252, was received in evidence.)

21 MS. MOESER: Government's Exhibit Number 303.

22 THE COURT: Any objection?

23 MS. DONNELLY: No objection.

24 THE COURT: Admitted.

25 (Government Exhibit 303, was received in evidence.)

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1 MS. MOESER: Government's Exhibit Number 304.

2 THE COURT: Any objection?

3 MS. DONNELLY: No objection.

4 THE COURT: Admitted.

5 (Government Exhibit 304, was received in evidence.)

6 MS. MOESER: Government's Exhibit Number 306.

7 THE COURT: Any objection?

8 MS. DONNELLY: No objection.

9 THE COURT: Admitted.

10 (Government Exhibit 306, was received in evidence.)

11 MS. MOESER: Government's Exhibit Number 308.

12 THE COURT: Any objection?

13 MS. DONNELLY: No objection.

14 THE COURT: Admitted.

15 (Government Exhibit 308, was received in evidence.)

16 MS. MOESER: Government's Exhibit Number 310.

17 THE COURT: Any objection?

18 MS. DONNELLY: No objection.

19 THE COURT: Admitted.

20 (Government Exhibit 310, was received in evidence.)

21 MS. MOESER: Government's Exhibit Number 314.

22 THE COURT: Any objection?

23 MS. DONNELLY: No objection.

24 THE COURT: Admitted.

25 (Government Exhibit 314, was received in evidence.)

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1 MS. MOESER: Government's Exhibit Number 315.

2 THE COURT: Any objection?

3 MS. DONNELLY: No objection.

4 THE COURT: Admitted.

5 (Government Exhibit 315, was received in evidence.)

6 MS. MOESER: Government's Exhibit Number 1401.

7 THE COURT: Any objection?

8 MS. DONNELLY: Just one second.

9 (Pause in proceedings.)

10 MS. DONNELLY: No objection.

11 THE COURT: Admitted.

12 (Government Exhibit 1401, was received in evidence.)

13 MS. MOESER: Government's Exhibit Number 1402.

14 THE COURT: Any objection?

15 MS. DONNELLY: No objection.

16 THE COURT: Admitted.

17 (Government Exhibit 1402, was received in evidence.)

18 MS. MOESER: Government's Exhibit Number 1834.

19 THE COURT: Any objection?

20 MS. DONNELLY: No objection.

21 THE COURT: Admitted.

22 (Government Exhibit 1834, was received in evidence.)

23 MS. MOESER: Government's Exhibit Number 1836.

24 THE COURT: Any objection?

25 MS. DONNELLY: No objection.

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1 THE COURT: Admitted.

2 (Government Exhibit 1836, was received in evidence.)

3 MS. MOESER: Government's Exhibit Number 1840.

4 THE COURT: Any objection?

5 MS. DONNELLY: No objection.

6 THE COURT: Admitted.

7 (Government Exhibit 1840, was received in evidence.)

8 MS. MOESER: Government's Exhibit Number 1842.

9 THE COURT: Any objection?

10 MS. DONNELLY: No objection.

11 THE COURT: Admitted.

12 (Government Exhibit 1842, was received in evidence.)

13 MS. MOESER: Government's Exhibit Number 2404-D.

14 THE COURT: Any objection?

15 MS. DONNELLY: No objection.

16 THE COURT: Admitted.

17 (Government Exhibit 2404-D, was received in  
18 evidence.)

19 MS. MOESER: Government's Exhibit 2433.

20 THE COURT: Any objection?

21 MS. DONNELLY: Objection.

22 THE COURT: And what's the number again on that one?

23 MS. MOESER: 2433.

24 THE COURT: 2433?

25 MS. MOESER: Yes, Your Honor.

1                   THE COURT: After we do the collective, we'll  
2 discuss each of these over at sidebar.

3                   MS. MOESER: Yes.

4                   THE COURT: The ones that has been admitted, Ladies  
5 and Gentlemen of the Jury, when it comes time for you to see  
6 them, they won't have to ask for permission to publish them,  
7 they won't have to have a discussion, they won't have to lay  
8 foundation, you will just see it.

9                   All right. Go ahead.

10                  MS. MOESER: Government's Exhibit 2732B.

11                  MS. DONNELLY: No objection.

12                  THE COURT: It's admitted.

13                  (Government Exhibit 2732B, was received in  
14 evidence.)

15                  MS. MOESER: Government's Exhibit 3013B, 3013C, and  
16 3013D.

17                  MS. DONNELLY: No objection.

18                  THE COURT: They're admitted.

19                  (Government Exhibit 3013B, 3013C, and 3013D, were  
20 received in evidence.)

21                  MS. MOESER: Government's Exhibit 3016B.

22                  MS. DONNELLY: No objection.

23                  THE COURT: Admitted.

24                  (Government Exhibit 3016B, was received in  
25 evidence.)

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1 MS. MOESER: Government's Exhibit 5103.

2 MS. DONNELLY: Objection.

3 THE COURT: Again, the number?

4 MS. MOESER: 5103, Your Honor.

5 THE COURT: All right. We'll talk about that at  
6 sidebar.

7 MS. MOESER: Government's Exhibit 5104.

8 MS. DONNELLY: Objection.

9 THE COURT: Sidebar.

10 MS. MOESER: Okay.

11 Government's Exhibit 401A.

12 MS. DONNELLY: Objection.

13 THE COURT: Sidebar.

14 MS. MOESER: Government's Exhibit 501.

15 MS. DONNELLY: Objection.

16 THE COURT: Sidebar.

17 MS. MOESER: Government's Exhibit 506.

18 MS. DONNELLY: Objection.

19 THE COURT: Sidebar.

20 MS. MOESER: Government's Exhibit 510.

21 MS. DONNELLY: Objection.

22 THE COURT: Sidebar.

23 MS. MOESER: Government's Exhibit 510A.

24 MS. DONNELLY: Objection.

25 THE COURT: Sidebar.

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1 MS. MOESER: Government's Exhibit 511.

2 MS. DONNELLY: Objection.

3 THE COURT: Sidebar.

4 MS. MOESER: Government's Exhibit 511A.

5 THE COURT: Sidebar.

6 MS. MOESER: Government's Exhibit -- Your Honor, I  
7 believe the rest are exhibits that the defendant has  
8 objections to, if you would like to go to sidebar now, or  
9 would you like me to read them?

10 THE COURT: No. I would like for you to read them  
11 out, so they can state their objections on the record for my  
12 friends on the 17th floor, and then we will talk about it over  
13 at the sidebar and then we will rule with respect to each of  
14 them.

15 MS. MOESER: Of course, Your Honor.

16 THE COURT: But go ahead.

17 MS. MOESER: Government's Exhibit 511.

18 MS. DONNELLY: Objection.

19 MS. MOESER: Government's Exhibit 511A.

20 MS. DONNELLY: Objection.

21 MS. MOESER: Government's Exhibit 512.

22 MS. DONNELLY: Objection.

23 MS. MOESER: Government's Exhibit 512A.

24 MS. DONNELLY: Objection.

25 MS. MOESER: Government's Exhibit 514.

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1 MS. DONNELLY: Objection.  
2 MS. MOESER: Government's Exhibit 515.  
3 MS. DONNELLY: Objection.  
4 MS. MOESER: Government's Exhibit 516.  
5 MS. DONNELLY: Objection.  
6 MS. MOESER: Government's Exhibit 517.  
7 MS. DONNELLY: Objection.  
8 MS. MOESER: Government's Exhibit 317A.  
9 MS. DONNELLY: Objection.  
10 MS. MOESER: Government's Exhibit 518.  
11 MS. DONNELLY: Objection.  
12 MS. MOESER: Government's Exhibit 519.  
13 MS. DONNELLY: Objection.  
14 MS. MOESER: Government's Exhibit 520.  
15 MS. DONNELLY: Objection.  
16 MS. MOESER: Government's Exhibit 523.  
17 MS. DONNELLY: Objection.  
18 MS. MOESER: Government's Exhibit 529.  
19 MS. DONNELLY: Objection.  
20 MS. MOESER: Government's Exhibit 530.  
21 MS. DONNELLY: Objection.  
22 MS. MOESER: Government's Exhibit 531.  
23 MS. DONNELLY: Objection.  
24 MS. MOESER: Government's Exhibit 532.  
25 MS. DONNELLY: Objection.

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1 MS. MOESER: Government's Exhibit 533.  
2 MS. DONNELLY: Objection.  
3 MS. MOESER: Government's Exhibit 534.  
4 MS. DONNELLY: Objection.  
5 MS. MOESER: Government's Exhibit 535?  
6 MS. DONNELLY: Objection.  
7 MS. MOESER: Government's Exhibit 536.  
8 MS. DONNELLY: Objection.  
9 MS. MOESER: Government's Exhibit 537.  
10 MS. DONNELLY: Objection.  
11 MS. MOESER: Government's Exhibit 538.  
12 MS. DONNELLY: Objection.  
13 MS. MOESER: Government's Exhibit 539.  
14 MS. DONNELLY: Objection.  
15 MR. MEHTA: Government's Exhibit 540.  
16 MS. DONNELLY: Objection.  
17 MS. MOESER: Government's Exhibit 541.  
18 MS. DONNELLY: Objection.  
19 MS. MOESER: Government's Exhibit 542.  
20 MS. DONNELLY: Objection.  
21 MS. MOESER: Government's Exhibit 545.  
22 MS. DONNELLY: Objection.  
23 MS. MOESER: Government's Exhibit 546.  
24 MS. DONNELLY: Objection.  
25 MS. MOESER: Government's Exhibit 547.

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1 MS. DONNELLY: Objection.  
2 MS. MOESER: Government's Exhibit 548.  
3 MS. DONNELLY: Objection.  
4 MS. MOESER: Government's Exhibit 549.  
5 MS. DONNELLY: Objection.  
6 MS. MOESER: Government's Exhibit 550.  
7 MS. DONNELLY: Objection.  
8 MS. MOESER: Government's Exhibit 601.  
9 MS. DONNELLY: Objection.  
10 MS. MOESER: Government's Exhibit 610.  
11 MS. DONNELLY: Objection.  
12 MS. MOESER: Government's Exhibit 651.  
13 MS. DONNELLY: Objection.  
14 MS. MOESER: Government's Exhibit 901.  
15 MS. DONNELLY: Objection.  
16 MS. MOESER: Government's Exhibit 951.  
17 MS. DONNELLY: Objection.  
18 MS. MOESER: Government's Exhibit 1108.  
19 MS. DONNELLY: Objection.  
20 MS. MOESER: Government's Exhibit 1111.  
21 MS. DONNELLY: Objection.  
22 MS. MOESER: Government's Exhibit 1112.  
23 MS. DONNELLY: Objection.  
24 MS. MOESER: Government's Exhibit 1120.  
25 MS. DONNELLY: Objection.

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1 MS. MOESER: Government's Exhibit 1123.

2 MS. DONNELLY: Objection.

3 MS. MOESER: Government's Exhibit 1127.

4 MS. DONNELLY: Objection.

5 MS. MOESER: Government's Exhibit 1134.

6 MS. DONNELLY: Objection.

7 MS. MOESER: Government's Exhibit 1136.

8 MS. DONNELLY: Objection.

9 MS. MOESER: Government's Exhibit 1301.

10 MS. DONNELLY: Objection.

11 MS. MOESER: Government's Exhibit 1301A.

12 MS. DONNELLY: No objection.

13 (Government Exhibit 1301A, was received in  
14 evidence.)

15 MS. MOESER: Government's Exhibit 1386.

16 MS. DONNELLY: Objection.

17 MS. MOESER: 1387.

18 MS. DONNELLY: Objection.

19 MS. MOESER: 1388.

20 MS. DONNELLY: Objection.

21 MS. MOESER: 1389.

22 MS. DONNELLY: Objection.

23 MS. MOESER: 1390.

24 MS. DONNELLY: Objection.

25 MS. MOESER: Government's Exhibit 1201.

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1 MS. DONNELLY: Objection.

2 MS. MOESER: Government's Exhibit 1201-1.

3 MS. DONNELLY: Objection.

4 MS. MOESER: Government's Exhibit 1201-2.

5 MS. DONNELLY: Objection.

6 MS. MOESER: Government's Exhibit 1201-3.

7 MS. DONNELLY: Objection.

8 MS. MOESER: Government's Exhibit 1201-4.

9 MS. DONNELLY: No objection.

10 (Government Exhibit 1201-4, was received in  
11 evidence.)

12 Received in evidence.)

13 MS. MOESER: Government's Exhibit 1201A1 through  
14 1201A14.

15 MS. DONNELLY: No objection to any of those.

16 (Government Exhibit 1201A1 through 1201A14, were  
17 received in evidence.)

18 MS. MOESER: Government's Exhibit 1201B1 through  
19 1201B6.

20 MS. DONNELLY: No objection.

21 (Government Exhibit 1201B1 through 1201B6, were  
22 received in evidence.)

23 MS. MOESER: Government's Exhibit 1201C1 through  
24 1201C14.

25 MS. DONNELLY: No objection.

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1 (Government Exhibit 1201C1 through 1201C14, were  
2 received in evidence.)

3 MS. MOESER: Government's Exhibit 1201D1 through  
4 1201D3.

5 MS. DONNELLY: No objection.

6 (Government Exhibit 1201D1 through 1201D3, were  
7 received in evidence.)

8 MS. MOESER: Government's Exhibit 1201E1 through  
9 1201E22.

10 MS. DONNELLY: No objection.

11 (Government Exhibit 1201E1 through 120E22, were  
12 received in evidence.)

13 Government's Exhibit 1201F1 through 1201F9.

14 MS. DONNELLY: No objection.

15 (Government Exhibit 1201F1 through 1201F9, were  
16 received in evidence.)

17 MS. MOESER: Government's Exhibit 1201G1 through  
18 1201G2.

19 MS. DONNELLY: No objection.

20 (Government Exhibit 1201G1 through 1201G2, were  
21 received in evidence.)

22 MS. MOESER: Government's Exhibit 1201H1 through  
23 1201H7.

24 MS. DONNELLY: No objection.

25 (Government Exhibit 1201H1 through 1201H7, were

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1 received in evidence.)

2 MS. MOESER: Government's Exhibit 2001II1 through  
3 1201II18.

4 MS. DONNELLY: No objection.

5 (Government Exhibit 1201II1 through 1201II18, were  
6 received in evidence.)

7 MS. MOESER: And Government's Exhibit 1201J1 through  
8 1201J28.

9 MS. DONNELLY: No objection.

10 (Government Exhibit 1201J1 through 1201J28, were  
11 received in evidence.)

12 MS. MOESER: And Government's Exhibit 714.

13 MS. DONNELLY: No objection.

14 (Government Exhibit 714, was received in evidence.)

15 MS. MOESER: Your Honor, may we approach?

16 THE COURT: Yes. We will do at sidebar. And then,  
17 ladies and gentlemen -- I take it these documents will be  
18 relevant to the next witness the Government is calling?

19 MS. MOESER: Yes, they will, Your Honor.

20 THE COURT: So you will be able to sort out which  
21 ones you can and which ones you cannot have before the jury.

22 Is that right?

23 MS. MOESER: Yes, Your Honor.

24 THE COURT: All right.

25 So that's what we're going to do, Ladies and

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1 Gentlemen of the Jury. I will try to be both accurate and  
2 prompt, and then we will get the next witness in and the  
3 testimony will continue smoothly, rather than breaking for  
4 every other document, which I think you would probably find  
5 annoying, at best.

6               Okay. White noise machine, please.

7 Sidebar.

8 (Continued on the next page.)

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## SIDEBAR CONFERENCE

1395

1 (The following occurred at sidebar.)

2 THE COURT: Okay. I believe the first document that  
3 was objected to, and hopefully we'll take these seriatim,  
4 you'll lead me through, it was 2433; is that correct?

5 MS. MOESER: Yes, Your Honor. And --

6 THE COURT: All right. Why don't we just do them  
7 one at a time for my friends the 17th floor.

8 To the extent that you agree that there's  
9 commonality with respect to what they're being offered for and  
10 what the objection is, I will make the ruling and then we  
11 can -- discuss more about it. But why don't you start with  
12 2433, what is the document?

13 MS. MOESER: Your Honor, I apologize. I thought  
14 that there was no objection to that. So if we can put a pin  
15 in that and perhaps discuss it with Counsel?

16 THE COURT: Okay. So we will put 2433 to the side  
17 for now?

18 MS. MOESER: Yes, that will be great, Your Honor.

19 THE COURT: All right. So then the first one will  
20 be 5103; is that right?

21 MS. MOESER: And those as well, Your Honor. If I  
22 can discuss those with Counsel, perhaps we can --

23 THE COURT: All right. 5103.

24 MS. MOESER: And 5104, Your Honor.

25 THE COURT: All right.

SIDE BAR CONFERENCE

1396

1                   So then the first one we need to talk about is  
2 1401A; is that correct?

3                   MS. MOESER: Yes, Your Honor.

4                   MS. DONNELLY: 1401A --

5                   THE COURT: Let me see it.

6                   MS. MOESER: Yes, Your Honor. I have it right here.

7                   THE COURT: Please just presume that I will see  
8 them --

9                   MS. MOESER: Of course, Your Honor.

10                  I have the first page as an example for you.

11                  THE COURT: All right. Hang on. Let me take a look  
12 at it.

13                  MS. MOESER: All right. And I have the remainder of  
14 the two.

15                  MS. DONNELLY: I have the full one.

16                  THE COURT: Okay.

17                  (Pause in proceedings.)

18                  THE COURT: All right. So what I am looking at is a  
19 document, being old school, that bears production numbers DOJ  
20 production numbers, VTB 37066. And it's DOJ Number the last  
21 four digits are 7480. It's from --

22                  MS. MOESER: And it's --

23                  THE COURT: Hang on.

24                  MS. MOESER: I'm sorry, Your Honor.

25                  THE COURT: Hang on. I used to do this for a

## SIDEBAR CONFERENCE

1397

1 living.

2 MS. MOESER: I apologize.

3 THE COURT: I promised my law clerks that I wouldn't  
4 burden them with much discovery. That's why God made  
5 magistrate judges.

6 It's from someone named Alexis Vaughan and it says,  
7 (bloomberg.net), it's a two-paged document.

8 MS. DONNELLY: Yes.

9 THE COURT: All right. Tell me what this document  
10 is and why you want it, and then you tell me why you object to  
11 it.

12 MS. MOESER: So, Your Honor, it is a multiple-page  
13 document --

14 THE COURT: Whoa. Vader.

15 MS. MOESER: I apologize, Your Honor.

16 THE COURT: Not Annie Hall, Chris Rock. Slow it  
17 down, Counsel.

18 MS. MOESER: Of course.

19 It's a multiple-page document. The remainder of the  
20 pages are right here. They are also DOJ VTB documents and DOJ  
21 Bates Numbered documents.

22 THE COURT: Let me stop you right there.

23 MS. MOESER: Yes.

24 THE COURT: What is a DOJ VTB document?

25 MS. MOESER: I was just reading the Bates Number at

## SIDEBAR CONFERENCE

1398

1 the bottom, Your Honor. These are documents from VTB Bank.

2 THE COURT: Okay let me stop you right there.

3 MS. MOESER: Yes, Your Honor.

4 THE COURT: The jury's heard a lot about VTB Bank.

5 What is the objection to VTB Bank records coming in, other  
6 than we need to have someone with VTB Bank here to  
7 authenticate that these are from the files of VTB Bank and  
8 maintained in the ordinary course, which I take it the  
9 Government would do, thereby lengthening the trial by a day or  
10 two.

11 But other than that, is there any objection to the  
12 VTB documents?

13 MS. DONNELLY: Yes.

14 THE COURT: Okay. And keep your voice up for the  
15 reporter.

16 MS. DONNELLY: The objection is to the relevancy.  
17 These are all trade tickets from VTB salespeople to various  
18 traders at various firms selling at -- selling the LPN and  
19 OPN.

20 THE COURT: LPN being?

21 MS. DONNELLY: The loan participation notes at both  
22 the initial offering and then throughout the next three years  
23 in the secondary market trades.

24 THE COURT: Right.

25 MS. DONNELLY: It's our view that unless we

## SIDEBAR CONFERENCE

1399

1 understand why the particular trader bought or sold the loan  
2 purchase agreement, it has no relevance to the this case.  
3 There is -- as Your Honor knows, there are 15 million reasons  
4 why a trader decides to buy or sell a security on a given day.  
5 That is especially true in the secondary market where, you  
6 know, they are just trading over-the-counter prices and so  
7 they may flip a trade to make a quick 1 million-dollar profit,  
8 it has nothing to do with what's in the offerings circular.  
9 And if we admit these, we are concerned about the prejudicial  
10 impact that the jury is going to assume that all of these  
11 trades were somehow prompted by the offerings circular.

12 THE COURT: Stop right there. What's your response  
13 to that argument?

14 MS. MOESER: Your Honor, these are the trades that  
15 the victims made in the securities. They are certified  
16 business records. They are not prejudicial in any way, they  
17 simply are a record of trading activity. They have no  
18 prejudicial value to the defendant. They're activity in  
19 regularly conducted business and we have some witnesses who  
20 will explain these various documents, what they did with these  
21 documents. But the records themselves come in because they  
22 are certified business records of regularly conducted  
23 activity.

24 THE COURT: Your concern is that they're going to  
25 argue that everyone who traded in these securities read the

## SIDEBAR CONFERENCE

1400

1 allegedly flawed and charitable disclosure statements.

2                   Their argument is going to be whether or not they  
3 read the documents that was, to use the old school phrase, at  
4 a minimum of fraud on the market that is perpetrated by the  
5 failures to properly disclose the alleged and admitted, by at  
6 least three of the participants, the bribes or kickbacks. Is  
7 that basically what we're talking about?

8                   MS. DONNELLY: Well, it's slightly more complicated  
9 than that.

10                  Because there have been numerous cases that have  
11 said that that fraud on the market theory is not applicable in  
12 criminal cases.

13                  THE COURT: Right.

14                  MS. DONNELLY: And so if that's their argument, then  
15 for that reason as well, we think these documents --

16                  THE COURT: Is your argument part of the market  
17 theory?

18                  MR. MEHTA: No, Your Honor. Really the purpose of  
19 this, as you know, defense counsel has argued that they should  
20 not be in the United States of America. That's been their  
21 theme.

22                  THE COURT: These are offshore trades.

23                  MR. MEHTA: Exactly. These show that these are  
24 actually not for trade.

25                  THE COURT: Hang on. You're offering them to show

## SIDEBAR CONFERENCE

1401

1 that they were transactions in the United States of America?

2 MR. MEHTA: Right.

3 THE COURT: And transactions through credit  
4 facilities and bank wire facilities in the United States.

5 MR. MEHTA: Yes, Your Honor, for wire fraud.

6 THE COURT: All right. Well, what's your response  
7 to the wire fraud argument as opposed to the fraud on the  
8 market.

9 MS. DONNELLY: I think these trade tickets are  
10 misleading.

11 THE COURT: Well, forget about misleading. But do  
12 they show that they were trades through U.S. wire and credit  
13 facilities? For example, let's just talk about this one, be  
14 JS418. What's the U.S. contact on this one?

15 MS. MOESER: Your Honor, and pardon me for looking  
16 over your shoulder. But this is evidence of a trade executed  
17 by people who are in the United States.

18 THE COURT: Well, show me one that's showing -- in  
19 this particular Document 401A, show me the U.S. presence that  
20 replaces these.

21 MS. MOESER: Your Honor, any transaction that goes  
22 through a bloomberg.net address, we have a witness who will  
23 testify that's it's the transaction that goes through New York  
24 and New Jersey.

25 THE COURT: Okay. Stop right there. What's your

## SIDEBAR CONFERENCE

1402

1 response to that?

2 MS. DONNELLY: Well, I guess --

3 THE COURT: Is that true?

4 MS. DONNELLY: I don't know that to be true, so --

5 THE COURT: Well, then, you'll get to challenge it.

6 But the Government is asserting that the bloomberg.net  
7 establishes the U.S. trade locus and unless you're telling me  
8 that you have reason to believe this is the Lichtenstein  
9 bloomberg.net address you can certainly challenge their  
10 argument, but I'm going to overrule the objection with respect  
11 to the VTB trade. They're being offered to show U.S.  
12 connection wire transfer, so they're going to come in.

13 MS. MOESER: This is the 401A.

14 THE COURT: Okay.

15 MR. MEHTA: They are all contained within 401A.

16 THE COURT: Okay. What's next is 401A -- so the  
17 objection's overruled. You have record preserved on that.

18 The next I've got is 501.

19 MR. MEHTA: Yes, Your Honor, this is Exhibit 501.

20 THE COURT: Keep your voice up.

21 MS. MOESER: Yes, Your Honor. This is a record of  
22 trading activity.

23 THE COURT: What is it being offered for?

24 MS. MOESER: It is being offered as a business  
25 record to show trading activity of one of the investors,

SIDE BAR CONFERENCE

1403

1 Your Honor, and this record is a certified business record.

2 THE COURT: Okay. But where were the trading done?

3 MS. MOESER: The trades were done in the  
4 United States, Your Honor.

5 THE COURT: Okay. So again to show U.S. trades.

6 MR. MEHTA: Yes, Your Honor.

7 THE COURT: What's the response?

8 MS. DONNELLY: Where does it say that on this  
9 document?

10 THE COURT: Okay. Let's see Exhibit GX501. What  
11 shows that this is a U.S. trade?

12 MS. MOESER: Your Honor, we will have witnesses who  
13 will say it's a U.S. trade.

14 THE COURT: Is there anything on the document that  
15 would support that view?

16 MS. MOESER: Your Honor, that information I believe  
17 is not ascertainable from the document itself, but it will  
18 come from witness testimony in conjunction with the document.

19 THE COURT: What witness will you have and what will  
20 he or she say? I want a proffer. What are they going to say  
21 about this document showing that this is a U.S. trade?

22 MR. MEHTA: Your Honor, these are documents from ICE  
23 Canyon.

24 THE COURT: From ICE Canyon.

25 MR. MEHTA: We're going to have witnesses Aneesh

## SIDEBAR CONFERENCE

1404

1 Partap and Nathan Sandlin who are going to testify that they  
2 were in Los Angeles.

3 THE COURT: Okay. So these were through the  
4 ICE Canyon Los Angeles folks that subpoenas were dropping all  
5 over the place --

6 MR. MEHTA: Yes, Your Honor.

7 THE COURT: -- that Magistrate Judge Tiscione was  
8 kind enough to point that out. So, again, ICE Canyon  
9 California. Any response? Last time I looked my son works or  
10 the LASD and they came and went to the Galaxy the other night  
11 so I know that was in LA and my wife was even there. I  
12 wasn't.

13 MS. DONNELLY: I get the two response.

14 THE COURT: Yes.

15 MS. DONNELLY: The first is that we don't -- let's  
16 hear the testimony where they say that these documents  
17 actually came in or that they were actually traded for --

18 THE COURT: No, no, let me stop you there.

19 The reason we're doing this and not wasting the  
20 jury's time is that we have people from ICE Canyon say, hi,  
21 I'm ICE Canyon and these are trades. Either they are U.S.  
22 trades or they're not.

23 So if you are telling me you have no reason to say  
24 these are not U.S. trades, they're going to come in.

25 MS. DONNELLY: It's our understanding that the

## SIDEBAR CONFERENCE

1405

1 trades were made through an Irish entity.

2 THE COURT: Well, this is why I'm asking the  
3 question.

4 MS. DONNELLY: Right.

5 THE COURT: Can you the Government, can you  
6 establish that these trades went through the ICE Canyon  
7 facility in Los Angeles as opposed to ICE Canyon in Ireland?

8 MS. MOESER: Yes, Your Honor. There are traders in  
9 Los Angeles who made these trades.

10 THE COURT: Okay. I am going to overrule the  
11 objection. It's noted for the record.

12 I used to represent international banks so I get it.  
13 Okay?

14 Next.

15 MS. MOESER: Okay, Your Honor.

16 THE COURT: The next one I have got is 506.

17 MS. DONNELLY: So, Your Honor, 506 --

18 THE COURT: Go ahead.

19 MS. DONNELLY: -- this would be an example of the  
20 further objection, the same objection.

21 THE COURT: All right. Then I will make the same  
22 ruling on the same basis and you have your record preserved  
23 for 506.

24 510.

25 MS. MOESER: All right. So, Your Honor, I think

SIDE BAR CONFERENCE

1406

1 this goes for Exhibits 510 through 550.

2 THE COURT: Okay. Hang on. 510, same objection?

3 MS. DONNELLY: Give me one moment. We're going to  
4 do this chronologically.

5 So you have --

6 THE COURT: Well, what is 510.

7 Let's do it old school.

8 MS. MOESER: 510, Your Honor, I have it right here.  
9 Here's 510.

10 THE COURT: Okay. What is it?

11 MR. MEHTA: It is a document, a communication  
12 between Credit Suisse and ICE Canyon, Your Honor.

13 THE COURT: Did it come through the U.S.?

14 MS. MOESER: Yes, it did, Your Honor, and Ms. Partap  
15 is located in Los Angeles and Dan Jurkowicz is located in  
16 New York.

17 THE COURT: All right. New York, Los Angeles, I'm  
18 going to let it in.

19 MS. MOESER: Okay.

20 THE COURT: Objection preserved.

21 That's 510. 510A.

22 MS. MOESER: 510A is the attachment, Your Honor.

23 THE COURT: Okay. Same objection, same ruling,  
24 record preserved.

25 MS. MOESER: Right.

SIDE BAR CONFERENCE

1407

1 THE COURT: All right. 511.

2 MS. MOESER: 511 is a similar communication,  
3 Your Honor.

4 THE COURT: Through a state facility --

5 MS. MOESER: Yes.

6 THE COURT: -- a United States facility?

7 MS. MOESER: Yes, it's an e-mail. Yes, Your, Honor.

8 THE COURT: Okay.

9 MS. MOESER: From Dominic Schultens.

10 THE COURT: Same objection, same ruling.

11 512?

12 MS. MOESER: 512, Your Honor, is the same kind of  
13 document.

14 THE COURT: U.S. connection?

15 MS. MOESER: Yes, Your Honor.

16 THE COURT: Same objection, same ruling.

17 514 -- 512A.

18 MS. MOESER: 512A is the attachment, Your Honor.

19 It's quite a lengthy document.

20 THE COURT: Okay. Same objection and same ruling.

21 14.

22 MS. MOESER: 514, Your Honor, is the same situation,  
23 Your Honor.

24 THE COURT: All right.

25 MS. MOESER: It's an e-mail from ICE Canyon.

SIDE BAR CONFERENCE

1408

1 THE COURT: Same objection, same ruling.

2 MS. MOESER: 515. Give me a moment.

3 (Pause in proceedings.)

4 THE COURT: 515, same objection?

5 MS. MOESER: Same objection.

6 THE COURT: What is 515.

7 MS. MOESER: 515, Your Honor, is a communication  
8 again through the United States again through ICE Canyon.

9 THE COURT: Okay. Same ruling.

10 517.

11 MS. MOESER: 517, Your Honor.

12 THE COURT: Same.

13 MS. MOESER: Same.

14 MS. DONNELLY: The ruling is the same.

15 MS. MOESER: Yeah.

16 THE COURT: Same objection.

17 MS. MOESER: I think, Your Honor, Your Honor as  
18 Ms. Donnelly suggested all the way through 550.

19 THE COURT: All right. Just so the record is clear  
20 517, 517A, 518, 519, 520, 523, 529, same objections, same  
21 ruling.

22 MS. DONNELLY: There's one --

23 THE COURT: I'm sorry.

24 MS. DONNELLY: -- exception. 520 that's a 403  
25 objection, too.

SIDE BAR CONFERENCE

1409

1 MR. BINI: 520?

2 MS. DONNELLY: 520.

3 THE COURT: You've got a 403 objection to 520?

4 MS. DONNELLY: Yes.

5 THE COURT: What is your objection?

6 MS. DONNELLY: Forwarding a translation, even in the  
7 body of the e-mail they said this is not a good translation,  
8 it's just Google translate. So in our view that should not  
9 come in unless it's a certified translation.

10 THE COURT: This is not been certified?

11 MS. MOESER: Your Honor, we're happy to prepare a  
12 certified translation to 520 to resolve any concern by  
13 Counsel.

14 THE COURT: Okay. Once we have that then I will  
15 admit it over the objection.

16 MS. MOESER: Great.

17 THE COURT: Now next.

18 MS. MOESER: I think we continue the 500 series,  
19 Your Honor, with the same objection.

20 THE COURT: Same objection, same ruling. So that's  
21 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540,  
22 541, 542, 545, 546, 547, 548, 549, 550; same objection, same  
23 ruling.

24 MS. MOESER: Yes.

25 Your Honor, I think you may have missed 523.

SIDE BAR CONFERENCE

1410

1 THE COURT: Yes. 523. Yes, same objection.

2 MS. MOESER: Okay.

3 THE COURT: Same ruling.

4 So now we're up to?

5 MS. MOESER: 601, I believe, Your Honor.

6 THE COURT: Yes.

7 MS. MOESER: So here is 601, Your Honor.

8 THE COURT: Is this ICE Canyon?

9 MS. MOESER: This is not ICE Canyon, Your Honor,  
10 this is for Lazard -- I'm sorry, Alliance Bernstein,  
11 Your Honor.

12 THE COURT: I'm sorry. U.S. entity?

13 MR. MEHTA: Yes, Your Honor, U.S. entity in  
14 New York.

15 THE COURT: Okay. U.S. entity in New York, that's  
16 601 same objection?

17 MR. SCHACHTER: Was this prepared for the  
18 Government?

19 MS. DONNELLY: May I?

20 MS. MOESER: I'm sorry, Your Honor, this is  
21 Alliance.

22 THE COURT: So what is 601?

23 MS. MOESER: It is a record of trading activity by  
24 Alliance Bernstein showing trades in the United States through  
25 United States facilities.

## SIDEBAR CONFERENCE

1411

1                   THE COURT: Same objection, same ruling.

2                   MS. DONNELLY: Slightly different objection.

3                   THE COURT: Yes.

4                   MS. DONNELLY: We don't believe this is a business  
5 record. We think this was prepared at the request of  
6 the Government.

7                   THE COURT: Let me stop you right there.

8                   Is this a business record or did you guys -- the  
9 Government request --

10                  MS. MOESER: We subpoenaed records of trade,  
11 Your Honor, and we received this from record from Alliance  
12 Bernstein, and then we received this certification of the  
13 record.

14                  THE COURT: Certification. This is an affidavit by  
15 a person named T-Y-E-N-A, Glacias. It states that she is a  
16 legal assistant for Alliance Bernstein, has personal knowledge  
17 of the matters set forth. Alliance Bernstein received this  
18 subpoena from the United States Government on May 28th of 2019  
19 in this case, that pursuant to the subpoena Alliance Bernstein  
20 produced, attached a spreadsheet through its counsel. The  
21 responsive documents were maintained by Alliance Bernstein in  
22 the ordinary course of business and it's the ordinary course  
23 of Alliance Bernstein to make such records. The document  
24 produced were exact duplicates of the originals. But see  
25 that, I think that that qualifies as a business record so

## SIDEBAR CONFERENCE

1412

1 unless there's something else in light of that affidavit from  
2 the in-house legal assistant, I will overrule the objection.  
3 It's not as if the Government directed or the litigation  
4 attorney directed the creation of this document.

5 MS. DONNELLY: So it's our understanding that the  
6 subpoena asked Alliance Bernstein to prepare the summary chart  
7 as part of the subpoena returns.

8 THE COURT: Yes, but the point is rather than come  
9 in with a million pieces of paper, isn't it more effective for  
10 both prosecution and defense to have a summary where you have  
11 the indicia of reliability from the company, not a party to  
12 the litigation, that this was a fair and accurate compilation  
13 of their business records.

14 I mean, I could, I suppose, to no one advantage  
15 require the company to bring in a truck load of documents but  
16 I used to review that as a first year associate while the  
17 partners I worked for got very wealthy by doing that, and then  
18 I became a partner, so I'm not complaining about that.

19 MR. SCHACHTER: Your Honor, just one note on this.  
20 What's inaccurate about this is it does not reflect the  
21 interest payments that were received. So it is an inaccurate  
22 and misleading description of the --

23 THE COURT: I'll let you get in the weeds on that in  
24 terms of pointing out the limitations. This isn't a damages  
25 case, to be blunt. This isn't about whether or not the exact

## SIDEBAR CONFERENCE

1413

1 interest amounts are reflected and being that I would expect  
2 the Government to point out on this chart that as far as you  
3 know they're not talking about a financial recovery. If it's  
4 a different kind of case, I might be a little more  
5 sympathetic. I'm going to overrule the objection on that  
6 basis. If you have your exception. What are we up to?

7 MS. MOESER: We're up to 610.

8 THE COURT: Well, let's make sure. 529, 530, 531.

9 MS. MOESER: We went through all of these.

10 THE COURT: All right. So we are up to what?

11 MS. MOESER: 610, Your Honor. It's a very lengthy  
12 request, if I could, bring it up on the street for you.

13 THE COURT: What is it?

14 MS. MOESER: It is another record of Alliance  
15 Bernstein. I think defense has the lengthy spreadsheets.

16 THE COURT: Okay. All right. Bottom line, what's  
17 the objection to it?

18 MS. DONNELLY: It's lengthy, it's filled with trades  
19 that there will be no testimony on. It's not clear to me that  
20 any of these trades are predicated by -- I'm not sure where  
21 these trades were made.

22 THE COURT: Hang on. Where were they made?

23 MR. MEHTA: New York, Your Honor.

24 THE COURT: Now you know.

25 MR. MEHTA: And we'll have a witness to testify to

## SIDEBAR CONFERENCE

1414

1 that.

2 THE COURT: They're made in New York.

3 MS. DONNELLY: We wouldn't have an objection to this  
4 document coming in as soon as that testimony is established.5 THE COURT: Well, you will lay that as a foundation,  
6 you'll say here's a document that's been marked and you're X,  
7 Y, Z, the banker, and are these documents that look like  
8 trades were made in New York, right? We'll do it that way.9 MR. MEHTA: Yes, Your Honor, but we submit that this  
10 should come into evidence right now because we would like to  
11 be able to use it with expert witnesses they were trades --  
12 use this with an expert who is going to come in before the  
13 banker comes in.14 THE COURT: All right. Let me shop you right there.  
15 I don't know the sequence.

16 MS. MOESER: Of course.

17 THE COURT: Is there any reason to question the  
18 legitimacy of what the Government has represented that these  
19 are New York trade record and that the banker will come  
20 forward in the course of the trial to say these are New York  
21 records; is there any good faith basis to challenge that?

22 MS. DONNELLY: Could I have one moment?

23 THE COURT: Sure.

24 (Pause in proceedings.)

25 THE COURT: Yes, Counsel.

SIDE BAR CONFERENCE

1415

1 MS. DONNELLY: It's our position that these trades  
2 even if the trader discussed it, even if the trader is based  
3 in New York, the trades themselves are actually happening  
4 abroad.

5 THE COURT: Okay. Let me stop you right there.

6 Did these trades go through New York?

7 MR. MEHTA: Trades went through New York,  
8 Your Honor.

9 THE COURT: I'm going to overrule the objection.  
10 You have your exception.

11 Okay. What's the next objection?

12 MS. MOESER: Your Honor, I believe it's 651.

13 THE COURT: Okay. What's the objection -- what is  
14 651.

15 MS. MOESER: 651 a trade spreadsheet from Lazard.

16 THE COURT: Lazard.

17 MR. MEHTA: It's a New York entity, Your Honor.

18 THE COURT: I know.

19 Trades made in New York?

20 MR. MEHTA: Yes, Your Honor.

21 MS. MOESER: Yes, Your Honor.

22 THE COURT: The same objection.

23 MS. DONNELLY: The same as --

24 THE COURT: Okay. Overruled on the same basis.

25 901.

SIDE BAR CONFERENCE

1416

1 MS. MOESER: Your Honor, yes, 901. 901 is a record  
2 from Greylodk. It is a similar record, Your Honor.

3 THE COURT: I'm sorry, would you spell that.

4 MS. MOESER: G-R-E-Y-L-O-D-K.

5 THE COURT: What is that entity?

6 MS. MOESER: It is the same thing an investor,  
7 Your Honor.

8 THE COURT: Located where?

9 MS. MOESER: Greylodk is located in New York as  
10 well, I believe, Your Honor.

11 THE COURT: Well, let's not believe.

12 MS. MOESER: I'm sorry, Your Honor, Greylodk, we  
13 have a certification from Greylodk they are located in  
14 New York.

15 THE COURT: Okay. Any objection to that?

16 MS. DONNELLY: There won't even be a witness from  
17 Greylodk, as we understand it. There's not one noticed on our  
18 witness list.

19 THE COURT: Well, suppose they bring in a custodian  
20 of records from Greylodk to say, Hi, I'm Greylodk from  
21 New York. Is that what you're requiring?

22 MS. DONNELLY: No. In our view and nothing on the  
23 face of the document says --

24 MS. MOESER: I'm sorry, this is 651.

25 THE COURT: I'm sorry. Don't talk over each other.

## SIDEBAR CONFERENCE

1417

1 MS. DONNELLY: I apologize, Your Honor.

2 THE COURT: Okay. We're at 901?

3 MS. MOESER: We're at 901, Your Honor.

4 THE COURT: Let me see it.

5 MS. MOESER: 901 is a lengthy spreadsheet,  
6 Your Honor, I have it here.

7 THE COURT: Do you have it here?

8 MS. MOESER: I do, Your Honor.

9 THE COURT: Bottom line what is the 901.

10 MS. MOESER: It's similar to 651, Your Honor. It's  
11 a trading record.

12 THE COURT: We didn't have -- okay. So were these  
13 trades done in New York?

14 MS. MOESER: Yes, Your Honor.

15 MS. DONNELLY: But my understanding is that the  
16 other entities that we've discussed the Government will be  
17 calling a witness who will eventually give that testimony.

18 With respect to Greylodk there will not be any --

19 THE COURT: All right. Why isn't there a Greylodk  
20 person coming in?

21 MR. MEHTA: We can call someone, Your Honor.

22 THE COURT: Do you want them to bring in a Greylodk  
23 person? Greylodk is here in New York, you have the documents.  
24 If you require a person from Greylodk I will order the  
25 Government to drop a subpoena on the custodian of records from

SIDE BAR CONFERENCE

1418

1 Greylodk to come in and say, I'm from Greylodk, New York,  
2 these are our records maintained in the ordinary course. Do  
3 you want me to do that? I'll do it if you want.

4 MR. JACKSON: Yes, Your Honor.

5 THE COURT: Okay. I'll do it. Should have done it  
6 before. It's a criminal case.

7 MS. MOESER: So, Your Honor, if I may 1108, 1111,  
8 1112, 1120, are all similar documents.

9 THE COURT: From Greylodk?

10 MS. MOESER: No, they're not from Greylodk,  
11 Your Honor?

12 THE COURT: Where are --

13 MS. MOESER: 1108 is from Eaton Vance.

14 THE COURT: Eaton Vance, do you have a  
15 certification.

16 MS. MOESER: We do. We have certification for all  
17 of these but not a witness, that's why I am lumping them  
18 together, Your Honor.

19 THE COURT: Okay. Let's do it one on one.

20 MS. DONNELLY: Yes, Your Honor.

21 THE COURT: 1101 is which company?

22 MR. JACKSON: Eaton Vance, Your Honor.

23 MR. SCHACHTER: They're in the UK.

24 THE COURT: What have they got?

25 MR. MEHTA: The point of the ruling, Your Honor, as

## SIDEBAR CONFERENCE

1419

1 Your Honor is aware amended in the year 2000 this should not  
2 have to have custodians come up and waste the jury's time  
3 saying I'm in New York, these are business records.

4 THE COURT: Look, I understand it is ethics, but I  
5 wasn't on the committee but some of my colleagues were. The  
6 bottom line is the defense is insisting that we have the  
7 bankers come in and say, these are our documents.

8 But what I will allow you to do is to have the  
9 documents come in subject to the connection by the bankers  
10 coming in and justifying it so that defense -- excuse me -- as  
11 long as there's no legitimate question about the authenticity,  
12 the accuracy, of the documents. So I will let you, for  
13 example, have your expert witness, which I assume is related  
14 to your expert.

15 MS. MOESER: Yes, Your Honor.

16 THE COURT: Relates to your cooperating witness or  
17 other witnesses. So your experts can say they've looked at it  
18 and then to the extent the defense wants to have the banker  
19 come in and say, hi, remember those documents that shows all  
20 these trades were done in New York that you heard about from  
21 the expert? Well, now I'm from Greylock and I want to tell  
22 you ladies and gentlemen of the jury, I guarantee, I'm right  
23 down the block with Greylock. If that's what the defense  
wants, you can have it. You may want the rethink that.

25 MR. SCHACHTER: But just to be clear, Eaton Vance, I

## SIDEBAR CONFERENCE

1420

1 believe, is in the United Kingdom so that's why it's not clear  
2 what the Government is saying.

3 MS. MOESER: Your Honor, let me pull up the  
4 certification for you.

5 THE COURT: Do they have a New York office?

6 MS. MOESER: I believe they're in Boston,  
7 Your Honor.

8 THE COURT: Boston, London, they talk funny but  
9 there you go.

10 Okay. Take a look at that.

11 MR. SCHACHTER: Your Honor, my understanding is  
12 Eaton Vance is a UK fund. Whether the certification --  
13 whether they have an office here or not --

14 THE COURT: Well, do they have an office in Boston?

15 MS. MOESER: Yes.

16 THE COURT: Hang on. Is that where the trades went  
17 on?

18 MS. MOESER: Your Honor --

19 THE COURT: Did the trades go through Boston or did  
20 the trades go through London?

21 MS. MOESER: Your Honor, I didn't have that but I  
22 can find out. This, I believe, is covered in the same  
23 objection that defense counsel has for a witness appearing.  
24 While we don't believe that that objection is appropriate for  
25 business records, we understand your ruling on the 1108 951 to

SIDE BAR CONFERENCE

1421

1 produce a witness so this may be subject to the same ruling,  
2 Your Honor.

3 THE COURT: Well, my question is does the document  
4 show -- we have a document show that the trade went through  
5 the United States?

6 MR. MEHTA: On this document, Your Honor, let's see,  
7 why don't we come back to this one, Your Honor.

8 THE COURT: This is.

9 MS. MOESER: 1108, Your Honor, yeah, we're putting a  
10 pen in 1108. 1111 this is a Fidelity record, Your Honor. We  
11 believe that counsel will have the same --

12 THE COURT: They're based in Boston, right?

13 MR. MEHTA: Yes, Your Honor.

14 MS. MOESER: That's 1111.

15 THE COURT: That's going to come in other the same  
16 objection.

17 1112, what is that?

18 MS. MOESER: 1112 is a First Trust document  
19 Your Honor.

20 THE COURT: Where are they located?

21 MS. MOESER: First Trust is located in Wheaton,  
22 Illinois.

23 THE COURT: All right. Same ruling. It's subject  
24 to connection.

25 MS. MOESER: 1120, Your Honor -- I apologize, go

SIDE BAR CONFERENCE

1422

1 ahead.

2 MS. DONNELLY: The document that we have as 1112 is  
3 from a fund called Aberdeen, which we understand to be from  
4 Europe and does not have a --

5 THE COURT: Let me see the document.

6 MS. DONNELLY: It does not say the name of fund,  
7 Your Honor.

8 THE COURT: Okay. Where is this --

9 MS. MOESER: Your Honor, this is a First Trust  
10 document. This has First Trust right here, Your Honor. They  
11 are base in Wheaton, Illinois.

12 THE COURT: Okay. First Trust document, Wheaton,  
13 Illinois, it comes in subject to connection and subject to the  
14 same objection, same ruling.

15 Okay.

16 MS. MOESER: 1120, Your Honor. 1120 is Goldman  
17 Sachs document.

18 THE COURT: I know they're here.

19 MR. MEHTA: Yes, Your Honor.

20 THE COURT: Okay. Are you really going to object to  
21 Goldman Sachs?

22 MS. DONNELLY: We are objecting to the idea that  
23 Goldman Sachs was trading these securities in New York.

24 THE COURT: Well, let me see the document.

25 MS. MOESER: 1120 is a lengthy document, Your Honor,

SIDE BAR CONFERENCE

1423

1 I'm sorry.

2 THE COURT: What shows that Goldman Sachs is in New  
3 York as opposed to Goldman Sachs offshore?

4 MR. MEHTA: Your Honor, basically the way it works,  
5 Your Honor, is that all these trades with executed by traders  
6 in New York.

7 THE COURT: Stop right there.

8 MR. MEHTA: Yes.

9 THE COURT: All these trades were executed by  
10 traders in New York. Do you hear that?

11 MS. DONNELLY: I hear him saying that.

12 THE COURT: And you're objecting to that?

13 MS. DONNELLY: It's my understanding they are not  
14 calling a witness from Goldman --

15 THE COURT: Okay. Overruled on the same basis.

16 Next?

17 MS. MOESER: 1123 which is a Morgan Stanley record.

18 THE COURT: Same ruling, same objection, preserved.

19 MS. MOESER: A Prudential record, Your Honor.

20 THE COURT: Same ruling, preserved.

21 MS. MOESER: I apologize.

22 1134, Your Honor, is a Thrivent record.

23 THE COURT: What?

24 MS. MOESER: Thrivent.

25 THE COURT: Spell that, please.

SIDE BAR CONFERENCE

1424

1 MS. MOESER: T-H-R-I-V-E-N-T.

2 THE COURT: Where are they located.

3 MS. MOESER: Thrivent, Your Honor, is located in  
4 Minneapolis, Minnesota.

5 THE COURT: Any objection to Minneapolis being part  
6 of the United States? Same ruling.

7 36.

8 MS. MOESER: 36, Your Honor, is a Van F record.

9 THE COURT: Where are they located?

10 MS. MOESER: Van F is located in New York,  
11 Your Honor.

12 THE COURT: Same ruling, same objection.

13 1301.

14 MS. MOESER: 1301, Your Honor, a bank record from  
15 JPMorgan Chase.

16 THE COURT: Same ruling.

17 MS. MOESER: Your Honor, 1301 is slightly different,  
18 if I may.

19 THE COURT: Go ahead.

20 MS. MOESER: 1301 is a record of transactions, it's  
21 not a trading record. It's simply a record we subpoenaed from  
22 JPMorgan Chase that shows various transactions to various  
23 defendants, co-defendants and coconspirators in the scheme, so  
24 it is a pure business record. The transactions go through the  
25 U.S. and we will have a --

SIDE BAR CONFERENCE

1425

1                   THE COURT: What did you not understand that I'm  
2 ruling in your favor?

3                   MS. MOESER: Oh, I'm sorry. Well, Your Honor, I  
4 wanted to clarify whether it was subject to connection because  
5 we do not plan on calling JPMorgan witness about the right of  
6 a transaction.

7                   THE COURT: Understood.

8                   1386.

9                   MS. MOESER: 1386 is a record from Key Bank. Again,  
10 this shows transactions, it's not a trading record,  
11 Your Honor.

12                  THE COURT: That's a New York bank.

13                  MS. MOESER: That's a New York bank. These records  
14 are from Colorado, Your Honor.

15                  THE COURT: Same ruling.

16                  87?

17                  MS. MOESER: Key Bank record, Your Honor.

18                  THE COURT: Same ruling.

19                  88.

20                  MS. MOESER: Key Bank record, Your Honor.

21                  THE COURT: Same ruling.

22                  89.

23                  MS. MOESER: Key Bank record, Your Honor.

24                  THE COURT: Same ruling.

25                  .

SIDE BAR CONFERENCE

1426

1 MS. MOESER: Key Bank, Your Honor.

2 THE COURT: Same ruling.

3 MR. MEHTA: 1201 is a Bank of New York Mellon  
4 record.

5 THE COURT: Same ruling.

6 MS. MOESER: Great. And the remainder, 1201-1 is a  
7 subset of the Bank of New York Mellon record.

8 THE COURT: Same ruling.

9 1201, 1202, 1203.

10 MS. MOESER: 1201, 1202, 1203 --

11 THE COURT: 1201 no objection to, right?

12 MR. JACKSON: Correct.

13 MS. MOESER: 2 and 3 are standard subsets  
14 Your Honor.

15 THE COURT: Okay. That's it?

16 MS. MOESER: I think that's it.

17 THE COURT: You have your rulings.

18 MR. JACKSON: Your Honor, can we clarify one thing  
19 before we go on.

20 THE COURT: Yes.

21 MR. JACKSON: There were a few references made to  
22 the expect that they expect to call with regard to these  
23 witnesses --

24 THE COURT: With regard to the documents.

25 MR. JACKSON: To these documents. I'm unclear what

## SIDEBAR CONFERENCE

1427

1 expert they are talking about.

2 THE COURT: They'll let us know.

3 MR. JACKSON: I am a little concerned --

4 THE COURT: They'll let us know and I'm not going to  
5 force them to force you to tell them what the order of your  
6 witnesses is.

7 MR. JACKSON: Of course not, Your Honor, we fully  
8 agree.

9 My concern is if they're talking about  
10 Ms. Spaulding. She's going to be the very next witness. She  
11 is not an expert witness. She has not been noted to --

12 THE COURT: Well, she is if I say she is.

13 MR. JACKSON: Well, of course, Your Honor.

14 THE COURT: I don't know that they're offering her  
15 as an expert and if you have an objection to what she is being  
16 offered to testify to or her expertise, we'll make it and I'll  
17 rule with respect to that, but this sidebar is to address the  
18 documents.

19 MR. JACKSON: Of course, Your Honor.

20 THE COURT: Little steps for my little feet.

21 Anything else?

22 MS. MOESER: No, Your Honor.

23 THE COURT: Okay. Step back. Thank you.

24 (Continued on next page.)

25

PROCEEDINGS

1428

1 (Sidebar ends; in open court.)

2 THE COURT: Believe it or not, Ladies and Gentlemen  
3 of the Jury, we just saved about eight weeks of trial time.

4 Okay. Ms. Moeser, are you ready to call your next  
5 witness?

6 MS. MOESER: Yes, Your Honor. The Government calls  
7 Wendy Spaulding.

8 THE COURT: Please have the witness brought forward,  
9 and Mr. Jackson, you will --

10 MS. MOESER: May I take the podium, Your Honor.

11 THE COURT: -- administer the oath.

12 You may. Absolutely.

13 MS. MOESER: Thank you.

14 THE COURT: Please come forward, Ms. Spaulding up  
15 here to the front.

16 THE WITNESS: (Complies.)

17 THE COURTROOM DEPUTY: Good morning.

18 THE WITNESS: Good morning.

19 THE COURTROOM DEPUTY: Just rest your bag here on  
20 the chair and I'll swear you in.

21 (The witness takes the witness stand.)

22 THE COURTROOM DEPUTY: Please raise your right.

23 You do solemnly swear or affirm the answers you are  
24 about to give to the Court are the truth, the whole truth, and  
25 nothing but the truth so help you God.

SPAULDING - DIRECT - MS. MOESER

1429

1 THE WITNESS: I do.

2 THE COURT: Thank you, Ms. Spaulding. Please be  
3 seated.

4 THE WITNESS: (Complies.)

5 THE COURT: You have a microphone in front of you  
6 once you sit down.

7 I'm Judge William Kuntz. I sound a little like  
8 James Earl Jones. I look exactly like Denzel Washington.  
9 You're welcome to laugh. It's the only joke I tell in the  
10 courtroom.

11 Okay. Please, you'll see that this microphone in  
12 front of you swivels and you will be heard much more clearly  
13 when you swivel it. It goes up and down, as well as side by  
14 side. If you speak directly into it when you answer the  
15 questions, as long as the green light is lit, you will be well  
16 heard.

17 Is that all right?

18 MS. DONNELLY: Yes, Your Honor.

19 THE COURT: Okay. Thank you.

20 (Witness takes the witness stand.)

21 **WENDY SPAULDING**, called as a witness, having been first duly  
22 sworn/affirmed, was examined and testified as follows:

23 THE COURT: You may inquire, Counsel.

24 DIRECT EXAMINATION

25 BY MS. MOESER:

SPAULDING - DIRECT - MS. MOESER

1430

1 Q Good morning.

2 A Good morning.

3 Q Would you state your name and spell it for the court  
4 reporter, please.

5 A Wendy Spaulding, W-E-N-D-Y; Spaulding, S-P-A-U-L-D-I-N-G.

6 Q Are you employed, Ms. Spaulding?

7 A Yes.

8 Q How are you employed?

9 A I work for my own company.

10 Q What does your company do?

11 A Provides financial consulting to the Federal Government.

12 Q How long have you done this work?

13 A Since approximately 1989.

14 Q Have you always worked for yourself?

15 A No.

16 Q Have you held other jobs?

17 A Yes.

18 Q What other jobs?

19 A I was the financial administrator for the sheriff's  
20 department in Tucson, Arizona. I also was the controller for  
21 several prior companies, and I worked for several accounting  
22 firms.

23 Q What do you do as a financial analyst for government  
24 agencies?

25 A Analyze financial records.

SPAULDING - DIRECT - MS. MOESER

1431

1 Q Okay. Who provides you with the records that you  
2 analyze?

3 A The Government.

4 Q Do you work alone or with others?

5 A With others.

6 Q What's your role in this work?

7 A My role is to manage and supervise the work of the  
8 others.

9 Q And what is their role?

10 A Their role is to analyze the financial records and assist  
11 me in my analysis.

12 Q Can you can please describe your educational background?

13 A Yes. I have a Bachelor's of Business Administration with  
14 a comprehensive public accounting major. I have a Masters's  
15 of Education.

16 Q Where did you go to school?

17 A My Bachelor's Degree is from the University of Wisconsin  
18 - Eau Claire. And my Master's Degree is from Northern Arizona  
19 University in Arizona.

20 Q Do you hold any professional licenses?

21 A Yes. I'm a CPA, a Certified Public Accountant.

22 Q What's a CPA?

23 A A CPA is an accountant that has passed the education  
24 requirements and experience requirements and taken an exam and  
25 certified by the State.

SPAULDING - DIRECT - MS. MOESER

1432

1 Q When did you get your CPA license?

2 A In 1983.

3 Q What state gave you that license?

4 A Arizona.

5 Q Were you retained by the Government in connection with  
6 the criminal case involving the Defendant John Boustani?

7 A Yes.

8 Q Do you know the Defendant John Boustani?

9 A No.

10 Q Were you paid for the work you did in connection with the  
11 case?

12 A Yes.

13 Q What's your hourly rate?

14 A \$100.

15 Q How much has your company billed on this case?

16 A Approximately \$5,000.

17 Q Have you been paid for all the hours you have billed to  
18 date?

19 A No.

20 Q Do you expect to be paid for your work?

21 A Yes.

22 Q Are you the only person who has worked on this matter for  
23 your company?

24 A No.

25 Q How many other people worked on this matter?

SPAULDING - DIRECT - MS. MOESER

1433

1 A One other person.

2 Q What was their role?

3 A To review the financial records and assist me in my  
4 analysis.

5 Q And what was your role?

6 A To review the financial records and prepare a summary  
7 schedules.

8 Q What were you asked to do on this matter?

9 A Review financial records.

10 Q Who asked you to do that?

11 A The Government.

12 Q Did the Government ask you to create summaries of  
13 financial records for particular entities or individuals?

14 A Yes.

15 Q What kind of records did you review?

16 A I reviewed bank statements, wire transfer records, and  
17 SWIFT messages.

18 Q What's a SWIFT message?

19 A A SWIFT message is a transmission, a message sent from  
20 one bank to another with instructions for a financial  
21 transaction.

22 Q Did you review any other kinds of documents?

23 A Yes.

24 Q What other kinds of documents?

25 A I reviewed emails.

SPAULDING - DIRECT - MS. MOESER

1434

1 MS. MOESER: Your Honor, at this time, may I ask  
2 Mr. Jackson to hand the witness a few exhibits?

3 THE COURT: Yes, you may.

4 Mr. Jackson, do that, please.

5 THE COURTROOM DEPUTY: Yes, Judge.

6 MS. MOESER: Government's Exhibits 1519 through 1531  
7 for identification purposes, Your Honor.

8 THE COURT: Thank you.

9 MS. MOESER: Thank you, Mr. Jackson.

10 BY MS. MOESER:

11 Q Ms. Spaulding, what bank records did you rely on to  
12 prepare your summary reports?

13 A Bank records from the Bank of New York Mellon and from  
14 JPMorgan Chase Bank.

15 MS. MOESER: Your Honor, may I publish  
16 Government's Exhibit 1201 already in evidence?

17 THE COURT: You may publish.

18 (Government's Exhibit Number 1201 is published to  
19 the jury.)

20 BY MS. MOESER:

21 Q Ms. Spaulding, what is this?

22 A This is a page from the Bank of New York Mellon bank  
23 records.

24 Q Are these records voluminous?

25 A Yes.

SPAULDING - DIRECT - MS. MOESER

1435

1 Q About how many pages?

2 A Approximately 30,000 pages.

3 Q Did you focus your review on a particular portion of the  
4 Bank of New York Mellon records?

5 A Yes.

6 MS. MOESER: Your Honor, may I publish  
7 Government's Exhibit 1201-1 already in evidence?

8 THE COURT: You may.

9 (Pause in proceedings.)

10 MS. MOESER: I think we may be having technical  
11 difficulties, Your Honor. I will return to 1201-1.

12 BY MS. MOESER:

13 Q Ms. Spaulding, Government's Exhibit 1201-1, which we will  
14 publish in a moment, about how many pages was that?

15 A Approximately 3500 page.

16 Q And what did it consist of?

17 A The wire transfer records.

18 Q For which bank?

19 A For the Bank of New York Mellon.

20 Q And Ms. Spaulding, did you review JPMorgan Chase records  
21 as well?

22 A Yes.

23 Q And did those records contain many tabs of financial  
24 information?

25 A Yes.

SPAULDING - DIRECT - MS. MOESER

1436

1 Q And were those records also voluminous?

2 A Yes.

3 Q Did you prepare summary reports in connection with your  
4 review of the Bank of New York Mellon and JPMorgan Chase  
5 records?

6 A Yes.

7 Q What type of summary reports did you prepare?

8 A Spreadsheets and the flowchart.

9 Q What was the process that you used to create the summary  
10 reports?

11 A I reviewed the financial records and put information on  
12 spreadsheets.

13 Q Did you do multiple drafts of some of these reports?

14 A Yes.

15 Q Did you make any changes between the drafts?

16 A Yes.

17 Q Why did you make changes?

18 A I made cosmetic changes.

19 Q Did you make any other changes to the drafts?

20 A Yes.

21 Q What other kinds of changes did you make?

22 A Information was added to this -- to this -- excuse me, to  
23 the spreadsheets.

24 Q And are your reports summarizing the Bank of New York  
25 Mellon and JPMorgan Chase records, Government's Exhibit 1519

SPAULDING - DIRECT - MS. MOESER

1437

1 through 1531 in the folder in front of you?

2 A Yes.

3 MS. MOESER: And, Your Honor, we are able to publish  
4 Government's Exhibit 1201-1 already in evidence.

5 (Government's Exhibit Number 1201-1 is published to  
6 the jury.)

7 BY MS. MOESER:

8 Q Ms. Spaulding, what is Government's Exhibit 1201-1?

9 THE COURT: Beside sideways, you mean?

10 MR. MOESER: Besides sideways.

11 A This is the wire transfers from the Bank of New York  
12 Mellon bank records.

13 Q Are those the records you were referring to being  
14 approximately 3500 pages?

15 A Yes.

16 MS. MOESER: And, Your Honor, may we publish  
17 Government's Exhibit 1301 already in evidence?

18 THE COURT: You may.

19 (Pause in proceedings.)

20 MS. MOESER: We're having technical difficulties  
21 with 1301, Your Honor.

22 THE COURT: The jury has noticed that.

23 MS. MOESER: Yes.

24 Apologies to Your Honor and to the jury.

25

SPAULDING - DIRECT - MS. MOESER

1438

1 BY MS. MOESER:

2 Q Ms. Spaulding, you mentioned the JPMorgan Chase records.

3 Are those Government's Exhibit 1301?

4 A Yes.

5 Q Ms. Spaulding, did the individual transactions you  
6 reviewed have a number of details?

7 A Yes.

8 Q Did you include every detail on the reports you created?

9 A No.

10 Q Did you use any other records, besides the  
11 Bank of New York Mellon and JPMorgan Chase records to create  
12 Government's Exhibits 1519 through 1531?

13 A Yes.

14 Q What other records did you use?

15 A The SWIFT messages.

16 MS. MOESER: Your Honor -- oh.

17 You Honor, if I may publish  
18 Government's Exhibit 1301 we now have on the screen.

19 THE COURT: It seems to be dancing, but all right.

20 (Government's Exhibit Number 1301 is published to  
21 the jury.)

22 MS. MOESER: It is dancing, Your Honor.

23 THE COURT: Could you get it -- maybe get it so that  
24 the jury can see it without whiplash?

25 MS. MOESER: There we go.

SPAULDING - DIRECT - MS. MOESER

1439

1 Apologies, Your Honor and apologies to the jury.

2 THE COURT: Okay.

3 (Continued on the next page.)

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SPAULDING - DIRECT - MOESER

1440

1 DIRECT EXAMINATION(Continued)

2 BY MS. MOESER:

3 Q Ms. Spaulding, what is Government's Exhibit 13801?

4 A The JP Morgan Chase records.

5 Q Thank you. Now let's see if our technology works. If I  
6 may publish Government's Exhibit 58; if it doesn't work I'll  
7 move to the Elmo, your Honor.

8 Your Honor, if I may switch to the Elmo?

9 THE COURT: You may.

10 MS. MOESER: Thank you, your Honor.

11 Q Ms. Spaulding, is this Government's Exhibit 58?

12 A Yes.

13 Q And what is Government's Exhibit 58?

14 A It is a SWIFT message.

15 Q This is one of the documents you relied on to create your  
16 summary reports?

17 A Yes.

18 Q Ms. Spaulding, did you rely on other SWIFT messages to  
19 create your summary reports?

20 A Yes.

21 MS. MOESER: Your Honor, if I may publish  
22 Government's Exhibit 1401 already in evidence?

23 THE COURT: You may.

24 Q Ms. Spaulding, what is Government's Exhibit 1401?

25 A This is also a SWIFT message.

SPAULDING - DIRECT - MOESER

1441

1 MS. MOESER: Your Honor, if I may publish  
2 Government's Exhibit 1402 already in evidence?

3 THE COURT: You may.

4 Q Ms. Spaulding, what is Government's Exhibit 1402?

5 A A SWIFT message.

6 Q Is this another record you relied on to create your  
7 summary reports?

8 A Yes.

9 Q Do your summary reports in Government's Exhibit 1519  
10 through 1531 fairly and accurately represent the particular  
11 transactions you reviewed in Government's Exhibit 1201,  
12 1201-1, 1301, 58, 1401, and 1402?

13 A Yes.

14 MS. MOESER: Your Honor, the Government would seek  
15 to admit Government's Exhibit 1519.

16 THE COURT: Any objection, other than previously  
17 stated?

18 MR. JACKSON: No objection.

19 THE COURT: Admitted. You may publish.

20 (Government Exhibit 1519, was received in evidence.)

21 MS. MOESER: If I may seek to admit a number of  
22 exhibits.

23 THE COURT: You may.

24 MS. MOESER: We seek to admit Government's Exhibit  
25 1520.

SPAULDING - DIRECT - MOESER

1442

1 THE COURT: Any objection?

2 MR. JACKSON: Yes, we have an objection, Your Honor.

3 THE COURT: This is something in addition to

4 whatever was previously noted at sidebar?

5 MS. MOESER: Yes, your Honor.

6 THE COURT: All right, sorry.

7 (Continued on the next page.)

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SIDE BAR CONFERENCE

1443

1 (Sidebar conference.)

2 THE COURT: Welcome back.

3 MS. MOESER: Good morning, your Honor.

4 THE COURT: The jury is wondering if they are going  
5 to hear this case, but that's okay.

6 MS. MOESER: 1520 is in front of you, your Honor a  
7 summary exhibit that our financial analyst created from  
8 records from JP Morgan Chase.

9 THE COURT: The witness created this document?

10 MS. MOESER: Yes.

11 THE COURT: I'm going to allow it over objection.

12 She can testify to what she made.

13 You can certainly voir dire her with respect to the  
14 creation of document. I will allow you to voir dire on that.

15 MR. JACKSON: I appreciate that, Judge. You'll  
16 allow me to voir dire on the creation of the document?

17 THE COURT: Absolutely.

18 MR. JACKSON: Thank you.

19 MS. MOESER: Thank you.

20 THE COURT: The objection is overruled, but you can  
21 voir dire on it.

22 (End of sidebar conference.)

23 (Continued on the next page.)

24

25

SPAULDING - DIRECT - MOESER

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1 (In open court.)

2 THE COURT: The objection is overruled. The  
3 document is admitted.

4 (Government Exhibit 1520, was received in evidence.)

5 MS. MOESER: Your Honor, I'd like to seek to admit  
6 Government 1521.

7 THE COURT: Any objection?

8 MR. JACKSON: No objection, your Honor.

9 THE COURT: Admitted.

10 (Government Exhibit 1521, was received in evidence.)

11 MS. MOESER: Seek to admit Government's Exhibit  
12 1522.

13 THE COURT: Any objection?

14 MR. JACKSON: No objection, your Honor.

15 THE COURT: Admitted.

16 (Government Exhibit 1522, was received in evidence.)

17 MS. MOESER: Government's Exhibit 1523.

18 THE COURT: Any objection?

19 MR. JACKSON: No objection, your Honor.

20 THE COURT: Admitted.

21 (Government Exhibit 1523, was received in evidence.)

22 MS. MOESER: Government's Exhibit 1524.

23 THE COURT: Any objection?

24 MR. JACKSON: No objection.

25 THE COURT: Admitted.

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1 (Government Exhibit 1524, was received in evidence.)

2 MS. MOESER: Government's Exhibit 1525.

3 THE COURT: Any objection?

4 MR. JACKSON: No objection, your Honor.

5 THE COURT: Admitted.

6 (Government Exhibit 1525, was received in evidence.)

7 MS. MOESER: Government's Exhibit 1526.

8 THE COURT: Any objection?

9 MR. JACKSON: No objection, your Honor.

10 THE COURT: Admitted.

11 (Government Exhibit 1526, was received in evidence.)

12 MS. MOESER: Government's Exhibit 1527.

13 THE COURT: Any objection?

14 MR. JACKSON: No objection.

15 THE COURT: Admitted.

16 (Government Exhibit 1527, was received in evidence.)

17 MS. MOESER: Government's Exhibit 1528.

18 THE COURT: Any objection?

19 MR. JACKSON: No objection, your Honor.

20 THE COURT: Admitted.

21 (Government Exhibit 1528, was received in evidence.)

22 MS. MOESER: Government's Exhibit 1529.

23 THE COURT: Any objection?

24 MR. JACKSON: No objection.

25 THE COURT: Admitted.

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1 (Government Exhibit 1529, was received in evidence.)

2 MS. MOESER: Government's Exhibit 1530.

3 THE COURT: Any objection?

4 MR. JACKSON: No objection, your Honor.

5 THE COURT: Admitted.

6 (Government Exhibit 1530, was received in evidence.)

7 MS. MOESER: Government's Exhibit 1531.

8 THE COURT: Any objection?

9 MR. JACKSON: No objection, your Honor.

10 THE COURT: Admitted.

11 (Government Exhibit 1531, was received in evidence.)

12 MS. MOESER: Your Honor, may I publish Government's  
13 Exhibit 1519 in evidence?

14 THE COURT: You may.

15 BY MS. MOESER:

16 Q Ms. Spaulding, do you have a copy of Government's Exhibit  
17 1519 in front of you?

18 A Yes.

19 Q Let's see if I can zoom in. What is Government's Exhibit  
20 1519?

21 A Exhibit 1519 is the schedule showing Proindicus wire  
22 transfers.

23 Q Which bank records did you use to compile this  
24 information?

25 A Bank of New York Mellon bank records.

SPAULDING - DIRECT - MOESER

1447

1 Q On this first line here, what does this show?

2 A A wire transfer on March 21, 2013 of \$328 million from CS  
3 International Bank of New York Mellon account number ending in  
4 0968 to Credit Suisse AG Bank of New York Mellon account  
5 number ending in 1034.

6 MS. MOESER: Your Honor, may I publish Government's  
7 Exhibit 1201-2 already in evidence?

8 THE COURT: You may. Any document already in  
9 evidence you can publish without seeking, that will speed  
10 things up.

11 MS. MOESER: Thank you, your Honor.

12 Q Ms. Spaulding, what is Government's Exhibit 1201-2?

13 A It is a bank statement.

14 Q Which bank is it the bank -- where is the bank account  
15 located?

16 A Bank of New York Mellon.

17 Q Where is the Bank of New York Mellon located?

18 A New York.

19 Q What is the account number?

20 A 8900329165.

21 Q Who is the account holder?

22 A First Gulf Bank.

23 Q Ms. Spaulding, 1201-3, already in evidence, what is  
24 Government's Exhibit 1201-3?

25 A A Bank of New York Mellon bank statement.

SPAULDING - DIRECT - MOESER

1448

1 Q Where is Bank of New York Mellon located?

2 A New York.

3 Q Who is the account holder?

4 A CSFB International Boston International.

5 Q What is the account number?

6 A 8900360968.

7 Q Ms. Spaulding, showing you 1201-4, already in evidence.

8 What is Government's Exhibit 1201-4?

9 A A Bank of New York Mellon bank statement.

10 Q Where is Bank of New York Mellon located?

11 A New York.

12 Q Who is the account holder?

13 A Credit Suisse AG.

14 Q What is the account number?

15 A 8900361034.

16 Q Returning to Government's Exhibit 1519, let me zoom in,  
17 the first line, Ms. Spaulding, you testified the transaction  
18 was from CS International with the bank account number 60968,  
19 is that the bank account that we just saw in Government's  
20 Exhibit 1201-3?

21 A Yes.

22 Q And you said it was sent to Credit Suisse AG bank account  
23 number 61034, is that the bank account that we just saw in  
24 Government's Exhibit 1201-4?

25 A Yes.

SPAULDING - DIRECT - MOESER

1449

1 Q So where are these two bank accounts located what bank?

2 A Bank of New York Mellon.

3 Q Can you tell the jury what the second line of 1519 shows?

4 A A wire transfer on March 21, 2013 of \$327,900,000 from  
5 Credit Suisse AG Bank of New York Mellon account number 61034  
6 to the First Gulf Bank Bank of New York Mellon account number  
7 29165.

8 Q Are those the two bank account numbers that we just saw  
9 Bank of New York Mellon?

10 A Yes.

11 Q Who is the beneficiary of this transaction?

12 A Privinvest Ship Building SAL account number ending in  
13 00028.

14 Q The bank account for First Gulf Bank, is that the bank  
15 account Bank of New York Mellon that we saw in 1201-2?

16 A Yes.

17 MS. MOESER: I believe our technology is back up, if  
18 we can switch to the computer at the table.

19 THE COURT: Yes, of course.

20 BY MS. MOESER:

21 Q If we can publish 1519.

22 Ms. Spaulding, the first transaction you described  
23 in the first line, did that go through the United States?

24 A Yes.

25 Q The second transaction to Privinvest, did that go through

SPAULDING - DIRECT - MOESER

1450

1 the United States?

2 MR. JACKSON: Objection.

3 THE COURT: Overruled. If you know.

4 A Yes.

5 Q Ms. Spaulding, looking at your summary what happened  
6 on -- what happened in June?

7 THE COURT: June of what year, counsel?

8 Q June 2013, Ms. Spaulding.

9 A On June 25, 2013, there was a wire transfer of  
10 \$90,190,000 from CS International Bank of New York Mellon  
11 account number 60968 to Credit Suisse AG Bank of New York  
12 Mellon account number 61034.

13 Q Did this transaction go through the United States?

14 A Yes.

15 Q Was there another transaction on June 25, 2013?

16 A Yes. A wire transfer of \$90,190,000 from Credit Suisse  
17 AG Bank of New York Mellon account number 61034 to First Gulf  
18 Bank Bank of New York Mellon account number 29165.

19 Q Ms. DiNardo, if we can go to the right a little more  
20 please.

21 Ms. Spaulding, who was the beneficiary of this  
22 transaction on June 25, 2013?

23 A Privinvest Ship Building SAL account number ending in  
24 0028.

25 Q Ms. Spaulding, what happened on July 9, 2013 in your

SPAULDING - DIRECT - MOESER

1451

1 summary chart?

2 A On July 9, 2013, there was a wire transfer of \$6,160,000  
3 from Citibank New York.

4 Q And who was the sender of that transaction?

5 A I can't see the top of the schedule anymore.

6 Q Ms. DiNardo, if you can show the top half of the  
7 schedule.

8 I believe, Ms. Spaulding, you also have a hard copy  
9 in front of you if that's helpful. Who is the ordering  
10 customer of that transaction of \$6 million on July 9?

11 A ICE Global Credit CLO Limited.

12 Q Who was the receiver of that transaction?

13 A CS International Bank of New York Mellon account number  
14 60968.

15 Q Is there a second transaction on July 9, 2013?

16 A Yes. There was a wire transfer of \$7,040,000 from  
17 Citibank New York to CS International Bank of New York Mellon  
18 account number 60968.

19 Q And did both these transactions on July 9, 2013 go  
20 through the United States?

21 A Yes.

22 Q And what was the -- what were the details of payment  
23 referenced in the first July 9, 2013 transaction?

24 A ICE Global Credit CLO Limited REF Proindicus USD372M28  
25 Feb 13CSI.

SPAULDING - DIRECT - MOESER

1452

1 Q How about the second transaction on July 9, 2013?

2 A ICE Global Credit CLO Ltd REF Proindicus USD372M28

3 Feb 13CSI.

4 Q What happened on August 14, 2013?

5 A On August 14, 2013, there was a wire transfer of  
6 \$20,860,800 from CS International Bank of New York Mellon  
7 account number 60968 to Credit Suisse AG Bank of New York  
8 Mellon account number 61034.

9 Q Did this transaction go through the United States?

10 A Yes.

11 Q Is there a second transaction on August 14, 2013?

12 A Yes.

13 Q What is the second transaction?

14 A Wire transfer of \$28,860,800 from Credit Suisse AG Bank  
15 of New York Mellon account number 61034 to First Gulf Bank  
16 Bank of New York Mellon account number 29165.

17 Q Ms. DiNardo, if we can go down a little.

18 Who is the beneficiary of the transaction, the  
19 second transaction on August 14?

20 A Privinvest Ship Building SAL.

21 THE COURT: Make that larger for the jury, it's hard  
22 to read.

23 Q Ms. Spaulding, who is the beneficiary of the August 14,  
24 2013, \$20 million transaction?

25 A Privinvest Ship Building SAL account number ending 0028.

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1453

1 Q What is the detail payment information?

2 A BNF Proindicus SA.

3 Q What happened in November of 2013 on your spreadsheet?

4 A A wire transfer of \$100,512,400 was sent from Credit  
5 Suisse AG Bank of New York Mellon account number 61034 to  
6 First Gulf Bank Bank of New York Mellon account number 29165.

7 Q Who was the beneficiary of that transaction?

8 A Privinvest Ship Building SAL account number ending 0028.

9 Q Did this transaction go through the United States?

10 A Yes.

11 Q Ms. Spaulding, on the second half of Government's Exhibit  
12 1519, beginning in March 2014 there are a series of  
13 transactions between March 2014 and March 2016. Who is the  
14 sender of these transactions between March 2014 and  
15 March 2016?

16 A Credit Suisse AG.

17 Q Who is the receiver of these transactions?

18 A Citibank New York.

19 Q What is the beneficiary or account bank for these  
20 transactions?

21 A ICE Global Credit Limited and ICE 3 Global Credit  
22 Limited.

23 Q Does the bank to bank information for each of these  
24 reference Proindicus?

25 A Yes.

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1454

1 Q Do each of these transactions go through the United  
2 States?

3 A Yes.

4 Q Ms. Spaulding, showing you what is marked Government's  
5 Exhibit 1520, what is that?

6 A Exhibit 1520 is the flow chart summarizing several of the  
7 transactions from the previous spreadsheet.

8 Q What records did you rely on to create this chart?

9 A The Bank of New York Mellon records.

10 Q Did you rely on any other records?

11 A Yes.

12 Q What other records did you rely on?

13 A The SWIFT message records.

14 Q Is that Government's Exhibit 58 that we just saw?

15 A Yes.

16 THE COURT: To be clear you created this chart,  
17 correct?

18 THE WITNESS: Yes.

19 THE COURT: After reviewing those documents that you  
20 had talked about, the records?

21 THE WITNESS: Yes, your Honor.

22 THE COURT: Go ahead.

23 Q Does this chart accurately reflect the information that  
24 you identified in the bank records?

25 A Yes.

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1455

1 Q Looking at this chart, what is the first line of the flow  
2 chart?

3 A The first line shows a wire transfer from CS  
4 International of \$328 million on March 21, 2013. And a wire  
5 transfer from Credit Suisse AG of \$327,900 on March 21, 2013  
6 to Privinvest Ship Building.

7 Q These are reflected in the first two lines of  
8 Government's Exhibit 1519?

9 A Yes.

10 Q What is the second line of the flow chart?

11 A A wire transfer from CS International of 90,190,000 on  
12 June 25, 2013 to Credit Suisse AG. And a wire transfer of  
13 90,190,000 on June 25, 2013 from Credit Suisse AG to  
14 Privinvest Ship Building.

15 Q Same as the June transaction we were looking at on your  
16 previous spreadsheets?

17 A Yes.

18 Q What is the third line?

19 A July 9, 2013, there was a wire transfer of \$6,160,000  
20 from ICE Global Credit CLO Limited to CS International. And a  
21 wire transfer of \$7,040,000 on July 9, 2013 from ICE 3: Global  
22 Credit CLO Limited. There was a wire transfer from CS  
23 International of \$28,860,800 on August 14, 2013 to Credit  
24 Suisse AG. And a wire transfer of \$28,860,800 on August 14,  
25 2013 from Credit Suisse AG to Privinvest Ship Building.

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1456

1 Q Is that reflected in the July and August transactions we  
2 looked at Government's Exhibit 1519?

3 A Yes.

4 Q What is the fourth line of this flow chart?

5 A A wire transfer from VTB Capital PLC of \$100,512,400 on  
6 November 15, 2013 to Credit Suisse AG. And a wire transfer  
7 from Credit Suisse AG of \$100,512,400 on November 15, 2013 to  
8 Privinvest Ship Building.

9 Q Did each of the transactions represented on this chart go  
10 through the United States?

11 A Yes.

12 Q Showing you Government's Exhibit 1521. What is  
13 Government's Exhibit 1521?

14 A Exhibit 1521 is a schedule a spreadsheet of the EMATUM  
15 wire transfers.

16 Q What records did you use to create to Exhibit 1521.

17 A The Bank of New York Mellon bank records.

18 Q Does Government's Exhibit 1521 accurately represent the  
19 financial information you identified in the Bank of New York  
20 Mellon records?

21 A Yes.

22 Q Looking at the first line of 1521, what does this show?

23 A A wire transfer on September 11, 2013 of \$446,900,000  
24 from Credit Suisse AG Bank of New York Mellon account number  
25 61034 to First Gulf Bank Bank of New York Mellon account

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1457

1 number 9165.

2 Q Who is the beneficiary of this transaction?

3 A Abu Dhabi MAR LLC.

4 Q Are the Credit Suisse and First Gulf Bank accounts the  
5 same accounts we saw earlier at Bank of New York Mellon?

6 A Yes.

7 Q Did this transaction go through the United States?

8 A Yes.

9 Q Can you describe to the jury the transaction on  
10 October 11, 2013?

11 A On October 11, 2013, there was a wire transfer of  
12 \$312,900,000 from Credit Suisse AG Bank of New York Mellon  
13 61034, to First Gulf Bank Bank of New York Mellon account  
14 number 2965.

15 Q Who is the ultimate beneficiary of this transaction?

16 A Abu Dhabi MAR LLC.

17 Q Did this transaction go through the United States?

18 A Yes.

19 Q On the second half of this chart, Ms. Spaulding, there  
20 are a number of transactions from March 2014 to March 2016.  
21 What is the -- did each of these transactions between  
22 March 2014 and March 2016 go through the United States?

23 A Yes.

24 Q Showing you what is marked as Government's Exhibit 1522.

25 What is Government's Exhibit 1522?

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1458

1 A Exhibit 1522 is a spreadsheet showing MAM wire transfers.

2 Q What records did you rely on to create this spreadsheet?

3 A The SWIFT messages.

4 Q Does this spreadsheet accurately identify information  
5 from the SWIFT messages?

6 A Yes.

7 Q Can you tell the jury about the first transaction?

8 A Yes, on May 23, 2014, there was a wire transfer of  
9 \$406,542,056.07. The sender was VTB Capital PLC London. The  
10 receiver was Deutsche Bank Trust Company New York. The  
11 ordering company was Mozambique Asset Management SA.

12 Q Did this transaction go through the United States?

13 A Yes.

14 Q Can you tell the jury about the second transaction --  
15 sorry. Who is the beneficiary of the first transaction?

16 A Privinvest Ship Building Investments LLC account number  
17 0028.

18 Q The same Privinvest account number that we saw in your  
19 summaries?

20 A Yes.

21 Q Tell the jury about the second transaction.

22 A June 11, 2014, there was a wire transfer of  
23 \$93,457,943.93. The sender of the transaction was VTB Capital  
24 PLC London. The receiver was Deutsche Bank Trust Company  
25 Americans New York. Ordering customer Mozambique Asset

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1 Management SA. And the beneficiary customer Privinvest Ship  
2 Building Investments LLC account number ending 0028.

3 Q Did each of these transactions go through the United  
4 States?

5 A Yes.

6 Q Ms. Spaulding, showing you Government's Exhibit 1524.  
7 What is 1524?

8 A Exhibit 1524 is a schedule showing wires to Jean  
9 Boustani.

10 Q Did the Government ask you to compile a summary of  
11 transactions for Jean Boustani?

12 A Yes.

13 Q What records did you use to compile your summary in 1524?

14 A The Bank of New York Mellon bank records and the JP  
15 Morgan Chase bank records.

16 Q Ms. DiNardo, if we can show more of the spreadsheet,  
17 maybe the transaction section. That's fine, thank you.

18 How many transactions to Jean Boustani did you find?

19 A Fifteen.

20 Q What was the value for each transaction?

21 A \$1 million.

22 Q How much money did Jean Boustani receive in total?

23 A \$15 million.

24 Q Who was the sender of the payments to Jean Boustani?

25 A Privinvest Ship Building SAL Holding account 0028, and

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1460

1 Logistics International SAL offshore AUH.

2 Q The Privinvest received from the Credit Suisse AG?

3 A Yes.

4 Q And Ms. DiNardo, scroll a little to the right; that's  
5 perfect.

6 And Ms. Spaulding, did these transactions go through  
7 the United States?

8 A Yes.

9 Q Which banks in the United States did these transactions  
10 go through?

11 A The Bank of New York Mellon and JP Morgan Chase.

12 Q Ms. Spaulding, if we can show you 1201-C-1.

13 You can blow up the middle section, Ms. DiNardo, so  
14 they can see the information.

15 THE COURT: If you can darken it a bit.

16 MS. MOESER: I don't think we can do.

17 THE COURT: Anything you can do on your end,  
18 Mr. Jackson?

19 COURTROOM DEPUTY: I'll try.

20 BY MS. MOESER:

21 Q What is Government's Exhibit 1201-C-1?

22 A This is one of the wire transfers that I used to prepare  
23 the schedule.

24 Q From what bank records is this wire transfer?

25 A From the Bank of New York Mellon.

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1461

1 Q Looking at Government's Exhibit 1201-C-1, where is  
2 Mr. Boustani's name?

3 A It is under on the bottom, right there, under ultimate  
4 beneficiary.

5 Q And where is the sender information from Privinvest that  
6 you identified?

7 A Over to the left where it says ordering customer.

8 Q Can you take that down, Ms. DiNardo. If we can put up  
9 1524 again -- I apologize, can you bring up 1201-C-1 one more  
10 time.

11 Ms. Spaulding, you testified that these transactions  
12 went through the Bank of New York Mellon and JP Morgan Chase,  
13 can you tell the jury where JP Morgan Chase is located?

14 A Yes, in Brooklyn, Brooklyn New York.

15 Q Thank you. Going back to Government's Exhibit 1524. How  
16 many -- what was the total value of payments you traced to  
17 Jean Boustani?

18 A \$15 million.

19 Q Showing you Government's Exhibit 1523. What is  
20 Government's Exhibit 1523, Ms. Spaulding?

21 A A schedule of wire transfers to Andrew Pearse.

22 Q Did the Government ask you to create a summary of a  
23 schedule of payments to Andrew Pearse?

24 A Yes.

25 Q What records did you use to create?

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1 A Bank of New York Mellon bank records and the JP Morgan  
2 Chase bank records.

3 Q Ms. DiNardo, if can you blow up a little bit of this  
4 information, thank you.

5 Who sent payments to Andrew Pearse?

6 A Privinvest Ship Building SAL Holding and Palomar Holdings  
7 Limited.

8 Q What account did Privinvest use?

9 A The account ending 0028.

10 Q The same account number we saw receiving funds in earlier  
11 summaries?

12 A Yes.

13 Q What is the total value of payment that you traced to  
14 Andrew Pearse? Go to the bottom of the total, Ms. DiNardo.

15 A \$45,200,000.

16 Q Did each of the transactions to Andrew Pearse go through  
17 the United States?

18 A Yes.

19 Q Through which banks?

20 A The Bank of New York Mellon and JP Morgan Chase.

21 Q Did some the transactions go through different banks?

22 A Yes, and Citibank New York and Bank of America New York.

23 Q Did you review any other records related to Andrew  
24 Pearse?

25 A Yes.

SPAULDING - DIRECT - MOESER

1463

1 Q Showing you Government's Exhibit 1818 and 1819.

2 Could we show those side by side, Ms. DiNardo?

3 Ms. Spaulding, what are these records?

4 A The bank records for the account of Andrew Pearse at Abu  
5 Dhabi Commercial Bank.

6 Q What did you do with these account statements?

7 A I took the wire transfers that were on the schedule  
8 prepared from the Bank of New York Mellon and Chase Bank  
9 records and saw that those transactions were reflected on  
10 Pearse's bank statements at Abu Dhabi Commercial Bank.

11 Q Ms. DiNardo, can we show Government's Exhibit 1818 and  
12 Government's Exhibit 1523 side by side. If we can blow up the  
13 first two lines of 1523, and blow up the first few lines of  
14 1818.

15 Ms. Spaulding, can you point out for the jury one of  
16 the transactions that matched between the Bank of Mellon and  
17 JP Morgan Chase records and the Andrew Pearse account at Abu  
18 Dhabi Commercial Bank?

19 A Yes. If you see the transaction, the top, on April 24,  
20 2013, on the bank statement you can see a credit of \$2,500,000  
21 into the account and the description references Privinvest  
22 Ship Building SAL Holding.

23 Q Which transaction does that match?

24 A The first transaction.

25 Q The dates on those transactions are a little bit

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1 different, is there any reason why the dates may be different?

2 A Yes, they can reflect sometimes one day different as far  
3 as the date that the bank credited the transaction.

4 Q Did you find every transaction to Andrew Pearse in your  
5 summary within the Abu Dhabi bank records?

6 A Yes.

7 Q Did you review any bank records related to Andrew Pearse  
8 and Privinvest?

9 A Yes.

10 Q Showing you Government's Exhibit 1386 and 1387. If we  
11 can show those side by side, Ms. DiNardo.

12 What other records did you review, Ms. Spaulding?

13 A Key Bank records, Key Bank of Colorado.

14 Q Ms. DiNardo, if we show Government's Exhibit 1387, page  
15 five.

16 Ms. Spaulding, what did the Government you ask to  
17 look for in the Key Bank records?

18 A Transfers from Andrew Pearse and transfers from  
19 Privinvest.

20 Q Did you identify any transfers from Andrew Pearse or  
21 transfers from Privinvest?

22 A Yes.

23 Q Looking at 1387, page five, the last two portions, blow  
24 up the left side only, thank you, Ms. DiNardo, the other left  
25 side, there we go.

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1465

1           Ms. Spaulding, can you explain to the jury, are  
2 these the transactions you identified in the Key Bank records?

3   A    Yes.

4   Q    What do these transactions show?

5   A    There was a wire transfer on April 24, 2014 that shows  
6 the originator as Andrew Pearse, the dollar amount is  
7 \$1,329,962.

8   Q    Is there another transaction from Andrew Pearse in the  
9 Key Bank records?

10   A   On April 28, 2014, a wire transfer the amount shown is  
11 \$339,962.

12   Q    Ms. DiNardo, can we go to the right on these records.

13           Ms. Spaulding, where were these transfers sent?

14   A    To Palomar Natural Resources LLC.

15   Q    Ms. DiNardo, go to page 12 of 1387. Can we blow up the  
16 left side, the top part and middle?

17           Did you identify other transactions from Privinvest  
18 for Andrew Pearse in the Key Bank records?

19   A    Yes.

20   Q    What other transactions?

21   A    Wire transfer on August 29, 2014 the originator  
22 Privinvest Development SAL Holding for the amount of  
23 \$2,240,000. And a wire transfer on September 3rd, 2014 from  
24 Andrew Pearse in the amount of \$1,120,000.

25   Q    If we can scroll to the right, Ms. DiNardo.

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1                   Where do these transactions go?

2 A           To Palomar Natural Resources LLC.

3 Q           Did these transactions go through the United States?

4 A           Yes.

5 Q           Ms. Spaulding, where is Palomar Natural Resources  
6 located, if you look at the second transaction?

7 A           Littleton.

8 Q           What is the third line?

9 A           United States.

10 Q           Where is Key Bank, where were the Key Bank records from?  
11 What was the address of the account statements from earlier,  
12 what state was that located in?

13 A           Colorado.

14 Q           Showing you Government's Exhibit 1525. What is  
15 Government's Exhibit 1525?

16 A           A schedule of wire transfers to Surjan Singh.

17 Q           What records did you create to create this schedule?

18 A           Bank of New York Mellon and the JP Morgan Chase records.

19 Q           How many transactions did you find for Surjan Singh?

20 A           Five transactions.

21 Q           What is the total amount that was sent to Surjan Singh?

22 A           \$3,699,960.

23 Q           Did these each of these transactions go through the  
24 United States?

25 A           Yes.

SPAULDING - DIRECT - MOESER

1467

1 Q There is a sixth transaction on the spreadsheet, what is  
2 that, on the bottom?

3 A There was a wire transfer on January 27, 2014, \$800,000,  
4 that the records show did not clear the bank. And the wire  
5 was then resent on January 28, 2014, same amount less than the  
6 \$40 service charge, \$799,960, which is reflected in the top  
7 part of the schedule.

8 Q Did that payment reach Surjan Singh, the Surjan Singh  
9 account?

10 A Yes.

11 THE COURT: What do you mean did not clear the bank?

12 THE WITNESS: The transaction did not go all the way  
13 through for some reason, your Honor.

14 THE COURT: It was resubmitted a day or so later, is  
15 that what the records show?

16 THE WITNESS: Yes, your Honor.

17 THE COURT: We'll take a 15-minute comfort break now  
18 and be back here at 12:30.

19 Do not talk about the case. I'll ask the witness  
20 not to talk to anyone during the break.

21 THE WITNESS: Yes.

22 THE COURT: Thank you, ladies and gentlemen of the  
23 jury.

24 (Jury exits the courtroom.)

25 THE COURT: You may step down as well.

SPAULDING - DIRECT - MOESER

1468

1 (Whereupon, the witness steps down.)

2 THE COURT: Any issues to discuss in the absence of  
3 the jury while all parties are present and the defendant is  
4 present?

5 MR. BINI: Not from the Government, your Honor.

6 MR. JACKSON: No, your Honor.

7 THE COURT: Enjoy your 15-minute break.

8 (Brief recess.)

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1 (In open court; jury not present.)

2 THE COURTROOM DEPUTY: All rise. Judge Kuntz  
3 presiding.

4 THE COURT: We have all counsel present and we are  
5 having the defendant presented.

6 Do we have any issues to discuss before the jury  
7 comes back?

8 MR. BINI: None from the Government, Your Honor.

9 MR. JACKSON: No, Your Honor.

10 THE COURT: Mr. Jackson, would you get the CSO when  
11 we have the defendant come back in?

12 Witness, please come back to the witness stand.

13 Thank you.

14 (Defendant enters the courtroom.)

15 THE COURT: Hello, Mr. Boustani. How are you today?

16 THE DEFENDANT: All right, Judge.

17 THE COURT: Good.

18 (Witness resumes the stand.)

19 MS. MOESER: May I go back to the podium, Your  
20 Honor?

21 THE COURT: Yes, of course.

22 (Pause.)

23 (Jury enters.)

24 THE COURT: Welcome back. Thank you, ladies and  
25 gentlemen of the jury. Please be seated.

SPAULDING - DIRECT - MS. MOESER

1470

1 Please be seated.

2 I'm going to ask you, ma'am, did you discuss your  
3 testimony with anyone during the break?

4 THE WITNESS: No, Your Honor.

5 THE COURT: Thank you.

6 You may continue your examination, Counsel.

7 MS. MOESER: Thank you, Your Honor.

8 Welcome back, Ms. Spaulding.

9 If we can go back to Government's Exhibit 1525,  
10 please, Ms. DiNardo.

11 DIRECT EXAMINATION (Continued)

12 BY MS. MOESER: (Continued.)

13 Q Ms. Spaulding, did you review any other records related  
14 to transactions to Surjan Singh?

15 A Yes.

16 MS. MOESER: Your Honor, the Government would seek  
17 to admitted, subject to connection, Government's Exhibit 1843.

18 THE COURT: Any objection other than previously  
19 noted.

20 MR. JACKSON: No, Your Honor.

21 THE COURT: Admitted. You may publish.

22 (Government Exhibit 1843, was received in evidence.)

23 (The above-referred to exhibit was published.)

24 BY MS. MOESER:

25 Q What is Government's Exhibit 1843, Ms. Spaulding?

SPAULDING - DIRECT - MS. MOESER

1471

1 A Government's Exhibit 1843 is the bank statements for  
2 Surjan Singh at Abu Dhabi Commercial Bank.

3 MS. MOESER: Ms. DiNardo, can we show Government's  
4 Exhibit 1843 side by side with Government's Exhibit 1525?

5 Q Ms. Spaulding, what did you look for in Government's  
6 Exhibit 1843?

7 A I looked at transactions to Surjan Singh's bank account  
8 that would match the transactions that I had already found in  
9 the Bank of New York Mellon and JPMorgan Chase records that I  
10 reflected on the schedule.

11 Q And what did you find, Ms. Spaulding?

12 A I found all of the transactions except for the \$800,000  
13 transaction at the bottom of my schedule.

14 Q That's the transaction that you testified did not go  
15 through?

16 A Yes.

17 MS. MOESER: And we can take down those callouts,  
18 Ms. DiNardo.

19 Could you show Government's Exhibit 1843 and  
20 Government's Exhibit 1818, Ms. DiNardo?

21 Q Ms. Spaulding, did you look for transactions between the  
22 account in Government's Exhibit 1818 and the account in  
23 Government's Exhibit 1843?

24 A Yes.

25 Q What did you find?

SPAULDING - DIRECT - MS. MOESER

1472

1 A I did find transactions between the two accounts.

2 Q How many transactions?

3 A Two.

4 Q What was the value of each of those transactions?

5 A \$1 million.

6 Q Showing you Government's Exhibit 1526.

7 MS. MOESER: Excuse me, Ms. DiNardo.

8 The Government would actually seek to admit

9 Government's Exhibit 2462.

10 THE COURT: Any objection?

11 MR. JACKSON: No objection, Your Honor.

12 THE COURT: Admitted. You may publish it.

13 (Government Exhibit 2462, was received in evidence.)

14 (The above-referred to exhibit was published.)

15 BY MS. MOESER:

16 Q Ms. Spaulding, who is this -- what is Government's  
17 Exhibit 2462?

18 A This is an email.

19 Q Who is it from?

20 A From Jean Boustani.

21 Q Who is it to?

22 A Najib Allam.

23 Q What's the subject?

24 A EMATUM.

25 Q What's the date?

SPAULDING - DIRECT - MS. MOESER

1473

1 A September 16, 2013.

2 Q Can you read the first sentence?

3 A All these are for Rosario.

4 MS. MOESER: Your Honor, the Government seeks to  
5 admit Government's Exhibit 2613 and 2613A.

6 THE COURT: Any objection?

7 MR. JACKSON: No objection.

8 THE COURT: Admitted. You may publish it.

9 (Government Exhibit 2613 and 2613A, were received in  
10 evidence.)

11 (The above-referred to exhibit was published.)

12 MS. MOESER: Can we show those side by side,  
13 Ms. DiNardo? Can we blow up the top of 2613, Ms. DiNardo?

14 BY MS. MOESER:

15 Q Ms. Spaulding, what is Government's Exhibit 2613?

16 A An email.

17 Q Who is it from?

18 A Antonio Do Rosario.

19 Q Who is it to?

20 A Mago2025@yahoo.com.

21 Q What's the date?

22 A December 10, 2013.

23 MS. MOESER: Ms. DiNardo, can we blow up 2613A?

24 Q What's the information on 2613A, Ms. Spaulding?

25 A A list of dates and entities and dollar amounts.

SPAULDING - DIRECT - MS. MOESER

1474

1 Q Now, showing you, Ms. Spaulding, Government's  
2 Exhibit 1526. What is Government's Exhibit 1526?

3 A A schedule showing wire transfers to the entities that  
4 were shown in Exhibits 2613A and the other two exhibits shown  
5 at the top of the schedule.

6 Q These are transactions to the entities in the emails we  
7 just reviewed, Ms. Spaulding?

8 A Yes.

9 Q What records did you rely on to create this schedule?

10 A The Bank of New York Mellon records.

11 MS. MOESER: Ms. DiNardo, can you blow up the top  
12 portion of the schedule, please?

13 Q About how many -- well, how many transactions in total,  
14 Ms. Spaulding, did you identify to these entities?

15 A Twenty-one.

16 Q Who sent these transactions?

17 A Logistics International SAL Offshore AUH and Privinvest  
18 Shipbuilding SAL Holding.

19 Q What's the Privinvest account number?

20 A The account number ending in 0028.

21 Q Is that the same account number we saw on the previous  
22 summary spreadsheets?

23 A Yes.

24 Q What's the total value of the transactions you  
25 identified?

SPAULDING - DIRECT - MS. MOESER

1475

1 A 11,971,000.

2 Q Did each of the transactions in the summary go through  
3 the United States?

4 A Yes.

5 MS. MOESER: Ms. DiNardo, can we show Government's  
6 Exhibit 1526 side by side with Government's Exhibit 2462? Can  
7 we blow up the top of 2462, Ms. DiNardo? Can we also blow up  
8 the top portion of 2462, Ms. DiNardo?

9 Ms. Spaulding, can you read the portion of the 2462  
10 that's on the screen?

11 A All these are for Rosario. Amount: 1,175,000 U.S.  
12 Dollars. Name: Walid Construcoes LDA.

13 THE COURT: Would you spell that, please?

14 THE WITNESS: Yes. W-A-L-I-D C-O-N-S-T-R-U-C-O-E-S  
15 L-D-A.

16 BY MS. MOESER:

17 Q Did you find a transaction matching this information in  
18 the Bank of New York Mellon records, Ms. Spaulding?

19 A Yes.

20 MS. MOESER: Ms. DiNardo, can we blow up the  
21 transactions about two-thirds of the way down the page on  
22 1526, please?

23 Q Ms. Spaulding --

24 MS. MOESER: Can we make it a little bit bigger  
25 Ms. DiNardo? Thank you.

SPAULDING - DIRECT - MS. MOESER

1476

1 Q Ms. Spaulding, can you identify the transaction matching  
2 the information in the email that you just read?

3 A Yes. The wire transfer on October 23, 2013, for  
4 \$1,175,000.

5 Q And who is the beneficiary on this transaction?

6 A Walid Construcoes LDA.

7 Q Is that the same as the information in the email?

8 A Yes.

9 Q What's the amount of this transaction?

10 A \$1,175,000.

11 Q Is that the same as the information in the email?

12 A Yes.

13 Q Did this transaction go through the United States?

14 A Yes.

15 Q Who sent this transaction?

16 A Logistics International SAL Offshore AUH.

17 MS. MOESER: Your Honor, the Government seeks to  
18 admit Government's Exhibit 2325 and 2325A, 2325B.

19 THE COURT: Any objection?

20 MR. JACKSON: No objection, Your Honor.

21 THE COURT: Admitted. You may publish.

22 (Government Exhibit 2325, 2325A, and 2325B, were  
23 received in evidence.)

24 (The above-referred to exhibit was published.)

25 MS. MOESER: Ms. DiNardo, can we show 2325, and

SPAULDING - DIRECT - MS. MOESER

1477

1 2325A side by side, please? Can you blow up the top of 2325,  
2 please, Ms. DiNardo?

3 BY MS. MOESER:

4 Q Ms. Spaulding, what is Government's Exhibit 2325?

5 A It is an email.

6 Q Who is it from?

7 A From Jean Boustani.

8 Q Who is it to?

9 A N -- excuse me. Nssmucavale@gmail.com.

10 Q What's the subject? You can read the top?

11 A Transfers.

12 Q What's the date?

13 A June 18, 2013.

14 MS. MOESER: You can take that down, Ms. DiNardo.

15 Q What's 2325A, Ms. Spaulding?

16 MS. MOESER: If we can blow it up a little,  
17 Ms. DiNardo.

18 A This is a SWIFT message.

19 MS. MOESER: Can we show 2325B, Ms. DiNardo?

20 Q What's 2325B, Ms. Spaulding?

21 A A SWIFT message.

22 MS. MOESER: Your Honor, the Government seeks to  
23 admit 2351 and 2351A.

24 THE COURT: Any objections?

25 MR. JACKSON: No objections, Your Honor.

SPAULDING - DIRECT - MS. MOESER

1478

1 THE COURT: Admitted. You may publish.

2 (Government Exhibit 2351 and 2351A, were received in  
3 evidence.)

4 (The above-referred to exhibit was published.)

5 MS. MOESER: Can you blow up the top of 2351,  
6 Ms. DiNardo?

7 BY MS. MOESER:

8 Q Ms. Spaulding, what is Government's Exhibit 2351?

9 A An email.

10 Q Who is it from?

11 A Jean Boustani.

12 Q Who is it to?

13 A Najib Allam.

14 Q What's the date?

15 A July 24, 2013.

16 Q Can you read the top part of the email? I'm sorry, can  
17 you read the text in the email at the top?

18 A Hi. A account, too, please. Let's please do the 150K  
19 dollars first of August. 300 K dollars first of September.  
20 Thanks.

21 MS. MOESER: Can we blow up 2351A, Ms. DiNardo?

22 Q Ms. Spaulding, what's the information in 2351A?

23 A There's a name and a bank, some reference numbers, and  
24 dollar amounts.

25 MS. MOESER: Your Honor, the Government seeks to

SPAULDING - DIRECT - MS. MOESER

1479

1 admit Government's Exhibit 2766.

2 THE COURT: Any objection?

3 MR. JACKSON: No objection, Your Honor.

4 THE COURT: Admitted. You may publish.

5 (Government Exhibit 2766, was received in evidence.)

6 (The above-referred to exhibit was published.)

7 MS. MOESER: Thank you, Ms. DiNardo.

8 BY MS. MOESER:

9 Q Ms. Spaulding, what's Government's Exhibit 2766?

10 A An email.

11 Q Who is it from?

12 A Jean Boustani.

13 Q Who is it to?

14 A Najib Allam.

15 Q What's the date?

16 A April 16, 2014.

17 Q Can you read the email?

18 A For A. One. In South Africa. Thanks.

19 MS. MOESER: Your Honor, the Government seeks to  
20 admit Government's Exhibit 2780.

21 THE COURT: Any objection?

22 MR. JACKSON: No objection, Your Honor.

23 THE COURT: It's admitted. You may publish.

24 (Government Exhibit 2780, was received in evidence.)

25 (The above-referred to exhibit was published.)

SPAULDING - DIRECT - MS. MOESER

1480

1 MS. MOESER: Could you blow up the top, Ms. DiNardo?

2 BY MS. MOESER:

3 Q Ms. Spaulding, what's Government's Exhibit 2780?

4 A An email.

5 Q Who is it from?

6 A Jean Boustani.

7 Q Who is it to?

8 A Najib Allam.

9 Q What is the date?

10 A June 13, 2014.

11 Q Can you read the subject at the top?

12 A Re: A.

13 MS. MOESER: Can you control down, Ms. DiNardo?

14 Q Ms. Spaulding, the bottom email, who is that from?

15 A Jean Boustani.

16 Q Can you read the first three lines?

17 A New address for A. 700,000 U.S., dollar sign. Jouberts'  
18 attorneys. Trust account.

19 THE COURT: Can you spell Jouberts, please?

20 THE WITNESS: J-O-U-B-E-R-T-S.

21 THE COURT: Thank you.

22 MS. MOESER: The Government seeks to admitted  
23 Government's Exhibit 3186.

24 THE COURT: Any objection?

25 MR. JACKSON: No objection, Your Honor.

SPAULDING - DIRECT - MS. MOESER

1481

1 THE COURT: You may admit and publish.

2 (Government Exhibit 3186, was received in evidence.)

3 (The above-referred to exhibit was published.)

4 MS. MOESER: Can you blow up the top part,

5 Ms. DiNardo?

6 BY MS. MOESER:

7 Q Ms. Spaulding, what's Government's Exhibit 3186?

8 A An email.

9 Q Who is it from?

10 A Jean Boustani.

11 Q What's the date?

12 A May 1st, 2013.

13 Q Can you read the subject at the top?

14 A Transfer.

15 Q And what information is in the email?

16 A It's a SWIFT message.

17 Q Ms. Spaulding, showing you Government's Exhibit 1527,  
18 what is Government's Exhibit 1527?

19 A A schedule showing wire transfers to the entities in the  
20 emails in the Government's Exhibits that we just looked at.

21 Q What records did you use to identify these transfers?

22 A The Bank of New York Mellon records.

23 MS. MOESER: Ms. DiNardo, can you blow up the  
24 transactions? Great.

25 Q How many transactions did you find, Ms. Spaulding?

SPAULDING - DIRECT - MS. MOESER

1482

1 A Ten transactions.

2 Q Who sent these transactions?

3 A Privinvest Shipbuilding SAL Holding, the account number  
4 ending in 0028.

5 Q Is that the same account that we saw earlier for  
6 Privinvest?

7 A Yes.

8 Q And what was the total value of these transactions?

9 A \$8,830,869.57.

10 Q Did each of these transactions go through the United  
11 States?

12 A Yes.

13 Q Which bank?

14 A The Bank of New York Mellon.

15 MS. MOESER: Ms. DiNardo, can we show Government's  
16 Exhibit 1527 and 2780 side by side? Can you blow up the  
17 bottom of 2780, Ms. DiNardo? And can you blow up some of the  
18 transactions in Government's Exhibit 1527 -- the bottom part  
19 of the transaction, Ms. DiNardo?

20 Q Ms. Spaulding, you already read the information in  
21 Government's Exhibit 2780. Did you find the transaction  
22 matching that information?

23 A Yes.

24 Q What date was that transaction?

25 A June 17, 2014.

SPAULDING - DIRECT - MS. MOESER

1483

1 Q Who sent that transaction?

2 A Privinvest Shipbuilding, account number ending in 0028.

3 Q What's the value of that transaction?

4 A \$700,000.

5 Q Does that match the information in the email,

6 Government's Exhibit 2780?

7 A Yes.

8 Q And who is the recipient of that transaction?

9 A Jouberts attorney just account.

10 Q Does that match the information in the email in

11 Government's Exhibit 2780?

12 A Yes.

13 Q Ms. Spaulding showing you Government's Exhibit 1528,

14 what's Government's Exhibit 1528?

15 A A schedule of wire transfers to MS International Trading  
16 FZCO.

17 Q How many transactions did you find to MS International  
18 Trading at CZO.

19 MS. MOESER: If we may see the transactions,  
20 Ms. DiNardo.

21 A Four transactions.

22 Q What's the total amount of those transactions?

23 A \$2,456,000.

24 Q Who sent these transactions?

25 A Logistics International SAL Offshore AUH.

SPAULDING - DIRECT - MS. MOESER

1484

1 Q Did each of these transactions go through the United  
2 States?

3 A Yes.

4 Q Showing Government's Exhibit 1529, what's Government's  
5 Exhibit 1529, Ms. Spaulding?

6 A A schedule showing wire transfers to Thyse International  
7 Incorporation.

8 THE COURT: Would you spell that, please?

9 THE WITNESS: T-H-Y-S-E.

10 BY MS. MOESER:

11 Q What records did you rely on to identify these  
12 transactions?

13 A The Bank of New York Mellon records.

14 Q How many transactions did you find to Thyse  
15 International?

16 A Three.

17 Q What's the total value --

18 MS. MOESER: May we see the transactions,  
19 Ms. DiNardo?

20 Q What's the total value of those transactions?

21 A \$5 million.

22 Q Who sent those transactions?

23 A Logistics International SAL Offshore AUH.

24 Q Did each of these transactions go through the United  
25 States?

SPAULDING - DIRECT - MS. MOESER

1485

1 A Yes.

2 MS. MOESER: Your Honor, Government seeks to admit  
3 Government's Exhibit 2744.

4 THE COURT: Any objection?

5 MR. JACKSON: No objection, Your Honor.

6 THE COURT: Admitted. You may publish.

7 (Government Exhibit 2744, was received in evidence.)

8 (The above-referred to exhibit was published.)

9 BY MS. MOESER:

10 Q Ms. Spaulding, what is Government's Exhibit 2744?

11 A An email.

12 Q Who is it from?

13 A Jean Boustani.

14 Q Who is it to?

15 A On Antonio Do Rosario.

16 Q What's the date?

17 A March 18, 2014.

18 Q What's the subject?

19 A Re: Bank detail.

20 MS. MOESER: Ms. DiNardo, if we can scroll down to  
21 the bottom of the first page.22 Ms. Spaulding, can you read the portion that -- the  
23 email -- who is the email on the bottom of the first page from  
24 underneath the line?

25 A Jean Boustani.

SPAULDING - DIRECT - MS. MOESER

1486

1 Q I'm sorry, up one email.

2 A Antonio Do Rosario.

3 Q And who is it to?

4 A Jean Boustani.

5 Q Can you read the first two sentences of that email?

6 A Marshal, sorry. Send 1.5 to LIFO and 0.5 to AJY Trading  
7 because I've just been told that they are different.8 MS. MOESER: Your Honor, the Government seeks to  
9 admit Government's Exhibit 5108.

10 THE COURT: Any objection?

11 MR. JACKSON: No objection.

12 THE COURT: Admitted. You may publish.

13 (Government Exhibit 5108, was received in evidence.)

14 (The above-referred to exhibit was published.)

15 BY MS. MOESER:

16 Q Ms. Spaulding, what's Government's Exhibit 5108?

17 A It was an email.

18 Q Who is it from?

19 A Jean Boustani.

20 Q Who is it to?

21 A Najib Allam.

22 Q What is the information in the bottom part of the email?

23 What's the account name?

24 A AJY trading FZC.

25 Q And what's the subject at the top of the email?

SPAULDING - DIRECT - MS. MOESER

1487

1 A Forward AYJ SWIFT.

2 MS. MOESER: Your Honor, the Government seeks to  
3 admit Government's Exhibit 2752.

4 THE COURT: Any objection?

5 MR. JACKSON: No objection.

6 THE COURT: Admitted. You may publish.

7 (Government Exhibit 2752, was received in evidence.)

8 (The above-referred to exhibit was published.)

9 MS. MOESER: Your Honor, we also seek to admit  
10 2752B.

11 THE COURT: Any objection?

12 MR. JACKSON: No objection, Your Honor.

13 THE COURT: You may publish. It's admitted.

14 (Government Exhibit 2752B, was received in  
15 evidence.)

16 (The above-referred to exhibit was published.)

17 BY MS. MOESER:

18 Q Ms. Spaulding, what's reference Exhibit 2752?

19 A An email.

20 Q Who is it from?

21 A Jean Boustani.

22 Q Who is it to?

23 A Najib Allam.

24 Q What's the date?

25 A March 31, 2014.

SPAULDING - DIRECT - MS. MOESER

1488

1 Q Can you read the text of the email?

2 A DJ -- excuse me. DG. One please. Thanks.

3 Q What's the subject at the top?

4 A Forward for Anlaba.

5 MS. MOESER: Can we show Government's Exhibit 2752B,  
6 please, Ms. DiNardo?

7 Q Ms. Spaulding, what information is there in Government's  
8 Exhibit 2752B?

9 A The top section says AYJ Trading. There's an invoice  
10 number, the date, March 30th, 2014.

11 Q Is there an amount?

12 A Yes, 1 million.

13 MS. MOESER: Your Honor, the Government seeks to  
14 admit Government's Exhibit 2775.

15 THE COURT: Any objection?

16 MR. JACKSON: No objection, Your Honor.

17 THE COURT: Admitted. You may publish.

18 (Government Exhibit 2775, was received in evidence.)

19 (The above-referred to exhibit was published.)

20 BY MS. MOESER:

21 Q Ms. Spaulding, what's Government's Exhibit 2775?

22 A An email.

23 Q Who is it from?

24 A Jean Boustani.

25 Q Who is it to?

SPAULDING - DIRECT - MS. MOESER

1489

1 A Najib Allam.

2 Q What's the date?

3 A May 28, 2014.

4 Q And what's the subject?

5 A Re: Transfers.

6 MS. MOESER: Ms. DiNardo, can we go to the bottom of  
7 page 2 on this email?

8 Q Ms. Spaulding, who is the bottom email from?

9 A Jean Boustani.

10 Q Can you read it, please?

11 A Hi. Can we please complete: 1.6M, dollar sign, to DG  
12 and then the account is closed. We reach the total of 5M,  
13 dollar sign.

14 Q Could you read the next sentence, please, Ms. Spaulding?

15 A 1M, dollar sign, to Eslat or Islat and then also the  
16 account is closed. We reach the total of 2M, dollar sign.17 MS. MOESER: Your Honor, the Government would seek  
18 to admit Government's Exhibit 2762 and 2762A.

19 THE COURT: Any objection?

20 MR. JACKSON: No objection, Your Honor.

21 THE COURT: Admitted. You may publish.

22 (Government Exhibit 2762 and 2762A, were received in  
23 evidence.)

24 (The above-referred to exhibit was published.)

25 MS. MOESER: Can we blow up the top of 2752,

SPAULDING - DIRECT - MS. MOESER

1490

1 Ms. DiNardo -- sorry, 62.

2 BY MS. MOESER:

3 Q Ms. Spaulding, what's Government's Exhibit 2762?

4 A An email.

5 Q Who is it from?

6 A Jean Boustani.

7 Q Who is it to?

8 A Najib Allam.

9 Q What's the date?

10 A April 9th, 2014.

11 Q Can you read the text of the email, please?

12 A One. Please. NYS in my list. Thanks.

13 Q And down below, who is the below email from?

14 MS. MOESER: Can you scroll down a little bit,

15 Ms. DiNardo?

16 Q Who is this email from?

17 A Manuel Jorge.

18 Q Who is it to?

19 A Jean Boustani.

20 Q Can you read the text?

21 A For the new man.

22 Q Looking at Government's Exhibit 2762A, what's

23 Government's Exhibit 2762A?

24 A It is an invoice.

25 Q Showing you Government's Exhibit 1530, what's

SPAULDING - DIRECT - MS. MOESER

1491

1 Government's Exhibit 1530, Ms. Spaulding?

2 A Government's Exhibit 1530 is a schedule of wire transfers  
3 referenced in the emails in the other Government's Exhibits  
4 that we just looked at.

5 MS. MOESER: Can we show the transactions in  
6 Government's Exhibit 1530, Ms. DiNardo?

7 Q Did you find transactions matching the information on the  
8 emails that we just reviewed, Ms. Spaulding?

9 A Yes.

10 Q What records did you rely upon to find these  
11 transactions?

12 A The Bank of New York Mellon records.

13 MS. MOESER: Can we show Government's Exhibit --  
14 sorry. Can we show Government's Exhibit 1530 side by side  
15 with Government's Exhibit 2762, Ms. DiNardo?

16 Q Did you find a transaction matching the information in  
17 Government's Exhibit 2762 in the Bank of New York Mellon  
18 records, Ms. Spaulding?

19 A Yes.

20 MS. MOESER: If we can blow up the bottom of  
21 Ms. Spaulding's chart, Ms. DiNardo.

22 Q Which transaction matches that information,  
23 Ms. Spaulding?

24 A The last transaction.

25 Q What's the date of that transaction?

SPAULDING - DIRECT - MS. MOESER

1492

1 A April 10th, 2014.

2 Q And what was the date of the email?

3 A April 9th, 2014.

4 Q What's the value of the transaction on your schedule?

5 A \$1 million.

6 Q And who is the recipient -- who is the beneficiary of the  
7 transaction in your schedule?

8 A Sunflower International Corp. FZE.

9 MS. MOESER: And Ms. DiNardo, if we can show  
10 Government's Exhibit 2762A on the -- maybe on the left side.  
11 If we can blow up the bottom information underneath the box,  
12 Ms. DiNardo, on 62A. Yes.13 Q Does the beneficiary on your schedule match the  
14 information in Government's Exhibit 2762A, Ms. Spaulding?

15 A Yes.

16 Q And what's the information in Government's Exhibit 2762A?

17 A Beneficiary name Sunflower International Corp. FZE.

18 Q Showing you Government's Exhibit 1531. What is  
19 Government's Exhibit 1531, Ms. Spaulding?20 A A summary schedule showing wire transfers to and from  
21 Privinvest Shipbuilding, account number ending in 0028.22 Q Ms. Spaulding, I apologize, I meant to ask you, for  
23 Government's Exhibit 1530, did --24 MS. MOESER: Can we bring 1530 up again,  
25 Ms. DiNardo?

SPAULDING - DIRECT - MS. MOESER

1493

1 Q Did each of the transactions in this summary go through  
2 the United States?

3 A Yes.

4 Q Going back to Government's Exhibit 1531.

5 MS. MOESER: If we can blow up the top portion,  
6 Ms. DiNardo.

7 Q How many transactions to Privinvest did you identify?

8 A Six transactions.

9 Q What's the date of the first transaction?

10 A March 21, 2013.

11 Q What's the value of the first transaction?

12 A \$327,900,000.

13 Q The total -- what's the value of all transactions that  
14 went to Privinvest?

15 A 1,047,463,200.

16 Q Each of these transactions here were on your previous  
17 summary schedules, correct?

18 A Yes.

19 Q Did each of these transactions go through the United  
20 States?

21 A Yes.

22 MS. MOESER: Can we scroll down to the second part  
23 of this 1531? Thank you. You can stop there.

24 Q What does the second part of the 1531 show,  
25 Ms. Spaulding?

SPAULDING - DIRECT - MS. MOESER

1494

1 A Wire transfers from the Privinvest Shipbuilding account  
2 ending in 0028.

3 Q What's the first date of the wire transfers from the  
4 Privinvest Shipbuilding account?

5 A April 23, 2013.

6 Q And what's the last date of transfers from the Privinvest  
7 Shipbuilding account?

8 A June 17th, 2014.

9 Q Approximately how much in total did you identify going  
10 from the Privinvest Shipbuilding account?

11 A Approximately \$35 million.

12 Q If we can look at the top -- are all these transactions  
13 going from the Privinvest Shipbuilding account in your earlier  
14 summary schedules, Ms. Spaulding?

15 A Yes.

16 Q Did each of these transactions go through the United  
17 States?

18 A Yes.

19 MS. MOESER: If we can look at the top portion,  
20 Ms. DiNardo.

21 Q Was there a transaction on June 25th, 2013, to  
22 Privinvest?

23 A Yes.

24 Q What's the value of that transaction?

25 A 90,190,000.

SPAULDING - DIRECT - MS. MOESER

1495

1 Q Who sent that transaction?

2 A Credit Suisse AG.

3 MS. MOESER: If we can go to the middle of the  
4 transactions from Privinvest, Ms. DiNardo.

5 Q Were there transactions from Privinvest after June 25th,  
6 2013?

7 A Yes.

8 Q What's the first transaction after June 25th, 2013?

9 A Transaction on June 26th, 2013, of \$1 million to Andrew  
10 Pearse.

11 Q What's the second transaction after June 25th, 2013?

12 A A wire transfer of \$1 million on July 8th, 2013, to Jean  
13 Boustani.

14 Q Looking at the last transaction out from Privinvest  
15 Shipbuilding, what's the date of that transaction,  
16 Ms. Spaulding?

17 A June 17th, 2014.

18 Q What's the value of that transaction?

19 A \$700,000.

20 Q Who is the beneficiary of that transaction?

21 A Jouberts attorney trust account.

22 MS. MOESER: May I have a moment, Your Honor?

23 THE COURT: You may.

24 (Pause.)

25 MS. MOESER: No further questions, Your Honor.

1                   THE COURT: All right. We are going to have a  
2 cross-examination, obviously, ladies and gentlemen, but since  
3 it's 1:25, can we agree to return from a lunch break at 2:45?  
4 Does that work? And then we will go straight through until  
5 5:00 with perhaps a brief comfort break in between and we'll  
6 have the hard stop at 5:00. All right, so we will see you at  
7 2:45. Enjoy your lunch. Do not talk about the case.

8                   And Madam Witness, please do not talk about your  
9 testimony during the lunch hour.

10                  Thank you.

11                  (Jury exits.)

12                  THE COURT: You may step down, now. Thank you.

13                  (Witness excused.)

14                  THE COURT: You may be seated, ladies and gentlemen  
15 of the public. The jury is out of the courtroom. Do we have  
16 any procedural issues to address while the defendant is  
17 present and the jury is not present.

18                  MR. BINI: Not for the Government, Your Honor.

19                  THE COURT: Defense counsel?

20                  MR. JACKSON: No, Your Honor.

21                  THE COURT: Okay. Thank you. Enjoy your lunch  
22 break. We will see you at 2:45.

23                  MR. BINI: Thank you, Your Honor.

24                  THE COURT: Thank you.

25                  (A recess in the proceedings was taken.)

1 A F T E R N O O N S E S S I O N

2 (In open court; jury not present.)

3 THE COURTROOM DEPUTY: All rise. Judge Kuntz  
4 presiding.

5 THE COURT: Thank you. I know we have all the  
6 appearances. You may be seated. We'll have the defendant  
7 produced. And are there any procedural questions that we need  
8 to address before we bring in the jury?

9 MR. BINI: Not for the Government, Your Honor.

10 MR. JACKSON: No, Your Honor. Thank you.

11 THE COURT: Okay. Thank you.

12 (Defendant enters the courtroom.)

13 THE COURT: Welcome back, Mr. Boustani. Good  
14 afternoon.

15 THE DEFENDANT: Good afternoon. Thank you.

16 THE COURT: Mr. Jackson, would you have the CSO  
17 bring the jury in?

18 Madam, would you please come back to the witness  
19 stand?

20 (Witness reassumes the stand.)

21 (Pause.)

22 (Jury enters.)

23 THE COURT: Thank you. Welcome back, ladies and  
24 gentlemen of the jury.

25 I appreciate your patience. Occasionally, matters

SPAULDING - CROSS - MR. JACKSON

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1 in other cases come up that I have to deal with in chambers,  
2 so your lunch hour gets extended, but we still have our five  
3 o'clock hard stop, so please be seated.

4 Please be seated, ma'am.

5 Ladies and gentlemen of the public as well.

6 Now, I'm going to ask you, as I said I would, did  
7 you speak with anyone about your testimony during the break,  
8 ma'am?

9 THE WITNESS: No, Your Honor.

10 THE COURT: Thank you.

11 All right. We will have cross-examination.

12 MR. JACKSON: Good morning, everyone -- afternoon.

13 CROSS-EXAMINATION

14 BY MR. JACKSON:

15 Q Good afternoon to you, ma'am.

16 A Good afternoon.

17 MR. JACKSON: Your Honor, may I inquire?

18 THE COURT: I think you already have.

19 MR. JACKSON: Thank you, Judge.

20 THE COURT: Go ahead.

21 BY MR. JACKSON:

22 Q Now, ma'am, you went over a bunch of charts during your  
23 direct examination, correct?

24 A Yes.

25 Q And am I correct that the Government when they asked you

SPAULDING - CROSS - MR. JACKSON

1499

1 to create the charts, they didn't just hand you a bunch of  
2 records and say, Please make some charts, did they?

3 A No.

4 Q In fact, what happened is, you sat down with the  
5 prosecutors and talked about the issues that you wanted to  
6 present in the charts, right?

7 A No.

8 Q Okay. Well, you did meet with the prosecutors before you  
9 made the charts, correct, ma'am?

10 A No.

11 Q You didn't meet with them at all?

12 A Not prior to making the charts, no.

13 Q Did you speak to the prosecutors?

14 A Yes.

15 Q Who did you speak to?

16 A Molly Moeser.

17 Q And Ms. Moeser gave you some instructions in terms of  
18 what she wanted you to do in terms of making the charts?

19 A Yes.

20 Q What was the instruction that she gave you?

21 A She asked me to look in the wire transfers for  
22 transactions involving particular entities.

23 Q And the particular entities were some of the entities  
24 that we talked about today during your direct testimony,  
25 correct?

SPAULDING - CROSS - MR. JACKSON

1500

1 A Yes.

2 Q Now, to be clear, ma'am, you have always -- well, you've  
3 never worked for any of the banks that were the subject of  
4 your direct testimony, right?

5 A Correct.

6 Q You never worked for Bank of New York Mellon.

7 A Correct.

8 Q You never worked for JPMorgan Chase.

9 A Correct.

10 Q And you've -- you've never toured the facility of  
11 JPMorgan, have you?

12 A No.

13 Q Nobody from JPMorgan has ever taken you to one of their  
14 data facilities and said, you know, Let us show you around and  
15 show you how it works in here, right?

16 A Correct.

17 Q And you don't know -- you are not personally familiar  
18 with the mechanics of how the Bank of New York Mellon systems  
19 work, are you?

20 A No.

21 Q In preparing your charts, you, yourself, didn't actually  
22 speak to anyone at Bank of New York Mellon, did you?

23 A No.

24 Q You didn't speak to anyone at JPMorgan, did you?

25 A No.

SPAULDING - CROSS - MR. JACKSON

1501

1 Q Now -- by the way, you are aware that JPMorgan is a very  
2 large bank, correct?

3 A Yes.

4 Q And you're aware that it has facilities all over the  
5 place, right?

6 A Yes.

7 Q It has branches all over the country, right?

8 A Yes.

9 Q It has -- beyond the branches -- facilities where  
10 different operations happen all over the country, right?

11 A I don't know that.

12 Q You don't know anything about that, right?

13 A No.

14 Q So when you talked about where certain of these banks  
15 were located, you were only talking about what you saw on the  
16 paper, correct?

17 A Yes.

18 Q In fact, you have no idea what the mechanics are of where  
19 the actual transactions take place within those banks,  
20 correct?

21 A Correct.

22 Q Now -- and that includes Bank of New York Mellon,  
23 correct?

24 A Yes.

25 Q Now, ma'am, you mentioned earlier something called a

SPAULDING - CROSS - MR. JACKSON

1502

1 SWIFT message, right?

2 A Yes.

3 Q And it's not called a SWIFT message because it's super  
4 fast, is it?

5 A No.

6 Q It's called a SWIFT message because SWIFT is an acronym,  
7 right?

8 A Yes.

9 Q And it stands for the Society For Worldwide Interbank  
10 Financial Telecommunication, correct?

11 A Yes.

12 Q Now, you, yourself, you've never worked for SWIFT, right?

13 A Correct.

14 Q And you don't know anything about it other than what you  
15 just pointed out on the documents, right?

16 A No, I don't.

17 Q Okay. Now -- by the way, ma'am, you mentioned that  
18 you're an accountant -- you're a CPA.

19 A Yes.

20 Q Licensed in Arizona?

21 A Yes.

22 Q But you work out of New York mostly.

23 A No.

24 Q Do you work all over the country?

25 A I mostly work in Arizona. I do cases all over the

SPAULDING - CROSS - MR. JACKSON

1503

1 country.

2 Q And prior to starting your own business, you worked for a  
3 company called NTI, correct?

4 A No.

5 Q Okay. Did you ever work for any other companies prior to  
6 starting your own business?7 A Well, I've been a consultant. Maybe that's what you  
8 mean.9 Q Oh, okay. You've been a consultant for other companies  
10 that do the type of work with the federal government that you  
11 do on an individual level.

12 A Yes.

13 Q And all of that work is work on behalf of the federal  
14 government, right?

15 A Yes.

16 Q In fact, it's a regular occurrence in your business that  
17 the prosecutors ask you to make some charts similar to the  
18 charts that you made in this case, right?

19 A Yes.

20 Q And you are never a person who has any independent  
21 understanding of the evidentiary significance within the  
22 broader questions of the case of the charts that you're  
23 creating, right?

24 A I wouldn't say never.

25 Q Okay.

SPAULDING - CROSS - MR. JACKSON

1504

1                   In this case, you're certainly not offering through  
2 the charts any opinion as to the validity of any charges,  
3 right?

4   A    Correct.

5   Q    You don't -- your only purpose with the charts is to  
6 depict and simplify certain other records that you have been  
7 shown, right?

8   A    Correct.

9                   MR. JACKSON: Can we actually take a look at the  
10 chart that is marked as Government's Exhibit 1523?

11   Q    Now, Ms. Spaulding, this is one of the charts that you  
12 created that we talked about this morning, correct?

13   A    Yes.

14   Q    And this is a chart entitled, Wires to Beneficiary Andrew  
15 Pearse, correct?

16   A    Yes.

17   Q    And now you have no idea who Andrew Pearse is, right?

18   A    I don't know Andrew Pearse.

19   Q    Right. You don't know anything about Andrew Pearse on a  
20 personal level, correct?

21   A    Correct.

22   Q    All you know about Andrew Pearse are what you saw in the  
23 documents that the prosecutors handed to you, correct?

24   A    Correct.

25   Q    Now, on this document, you noted down at the bottom --

SPAULDING - CROSS - MR. JACKSON

1505

1 first of all, there are a series of transactions that are  
2 depicted in this chart, right?

3 A Yes.

4 MR. JACKSON: Can we highlight the sixth transaction  
5 down, the one that starts at 9/25/13? Now, I know it's kind  
6 of small. Maybe we can blow that up just a little bit.

7 Can you see that, ladies and gentlemen?

8 Q Now, as we're looking here, am I correct that what you  
9 were depicting is a transaction that you saw in the records  
10 from something called Palomar Holdings Limited of \$15 million;  
11 am I correct about that?

12 A Yes.

13 Q And this is money that went to this person named Andrew  
14 Pearse, correct?

15 A Yes.

16 Q Now, Ms. Spaulding, can you identify what it says in the  
17 final field where it says bank-to-bank information?

18 A Yes. It says REF dividends payment.

19 Q Okay. From your knowledge as an accountant and as a  
20 person who does this kind of work, can you explain to us what  
21 a dividend is?

22 A A dividend is generally the return on an investment.

23 Q What category of people generally get dividends?

24 A Shareholders.

25 Q And by shareholders, you mean people who have some sort

SPAULDING - CROSS - MR. JACKSON

1506

1 of equity ownership stake in a company, right?

2 A Yes.

3 Q And can we look at what's depicted in eight -- the eighth  
4 column down, the one that starts at 10/23/13? And this is  
5 another transaction from this Palomar company of \$7.8 million,  
6 again, to this gentleman, Andrew Pearse; am I correct about  
7 that, Ms. Spaulding?

8 A Yes.

9 Q And again it says at the end -- I'm sorry. What does it  
10 say in the bank-to-bank information?

11 A REF dividend PYN.

12 Q Okay. Do you understand that as a dividend payment  
13 indication?

14 A That's what I would think that means.

15 Q Okay. And then if we look at the transaction, it says  
16 6/3 -- it starts at June 3rd, 2014. This is yet another  
17 transaction from Palomar Holdings Limited to this individual,  
18 Andrew Pearse, correct?

19 A Yes.

20 Q And, again, it says, dividends payment for this  
21 \$10 million transaction, right?

22 A Yes.

23 Q For him to get a grand total of -- when you added up all  
24 of these -- \$45 million. That's what you had at the bottom,  
25 right, Ms. Spaulding?

SPAULDING - CROSS - MR. JACKSON

1507

1 A Yes.

2 Q Now, you also -- the Government also asked you to take a  
3 look at wires that went to Jean Boustani, correct?

4 A Yes.

5 Q And you understand Jean Boustani to be the handsome  
6 defendant sitting here in the courtroom?

7 A Yes.

8 Q Now --

9 MS. MOESER: Objection, Your Honor.

10 MR. JACKSON: Withdrawn.

11 THE COURT: Well, I don't know, I'm no judge of  
12 male beauty. I've already told you I look like Denzel  
13 Washington. Who am I to judge? All right, go ahead.

14 MR. JACKSON: Thank you, Judge.

15 THE COURT: You're welcome.

16 BY MR. JACKSON:

17 Q Now, these wires to Mr. Boustani, to be clear, these are  
18 the only wires to Mr. Boustani that the prosecutors asked you  
19 to take a look at and make a chart of, right?20 A These are the only wire transfers that I found to  
21 Boustani.

22 Q Right.

23 And if we can look at 1524 -- GX1524, there are a  
24 bunch of payments that go from this company called Privinvest  
25 to Mr. Boustani, correct?

SPAULDING - CROSS - MR. JACKSON

1508

1 A Yes.

2 Q Now, I'm correct, Ms. Spaulding, that you are aware that  
3 not all wire transfers constitute illegal activity; am I  
4 correct?

5 A Yes.

6 Q In fact, it's actually very common that companies wire  
7 money to other companies or to individuals in regular business  
8 transactions, correct?

9 A Yes.

10 Q You're also familiar with the fact that sometimes  
11 salesmen get commissions on sales; you're aware of that,  
12 correct?

13 A Yes.

14 Q Now, you see that all of these transactions that are  
15 depicted in GX1524 are wires from Privinvest to Mr. Boustani  
16 between May 13th and June 14th of 2014. I'm sorry, May 6th,  
17 2013, to June 30th, 2014, correct?18 A They are from Privinvest and from Logistics  
19 International.

20 Q Correct.

21 Privinvest and Logistics International during the  
22 time period that I discussed, correct, Ms. Spaulding?

23 A Yes.

24 Q And they add up to, over that period of time, about  
25 \$15 million, right?

SPAULDING - CROSS - MR. JACKSON

1509

1 A Yes.

2 Q About \$30 million less than what we saw in the chart of  
3 all the monies that went to Mr. Pearse, correct?

4 A Yes.

5 Q And nowhere in the records did the prosecutors share with  
6 you did you see any wires for dividend payments from that  
7 company called Palomar to Mr. Boustani, correct?

8 A Correct.

9 Q Did the prosecutors ask you if you could take a second  
10 look to see if there was anywhere that they might be able to  
11 find dividend payments to Mr. Boustani from Palomar?

12 A No.

13 Q Okay.

14 By the way, the account that is depicted --

15 MR. JACKSON: If we can cull up 1524 one more time.

16 Q The account that's depicted in 1524 where Mr. Boustani  
17 received the money, that's in a bank called Abu Dhabi  
18 Commercial Bank?

19 A Yes.

20 Q And Abu Dhabi, I'm correct, is located outside of the  
21 state of New York.

22 A Yes.

23 Q In fact, it's outside of the United States of America,  
24 correct?

25 A Yes.

SPAULDING - CROSS - MR. JACKSON

1510

1 Q Do you know approximately how many miles away from the  
2 United States Abu Dhabi is from the United States?

3 A No.

4 Q Okay.

5 Fair to say, though, in looking at the records that  
6 the prosecutors provided to you at no point did you see any  
7 U.S. bank account for Mr. Boustani.

8 A Correct.

9 Q Okay. Now, ma'am, if you don't mind, can we take a brief  
10 look at Government's Exhibit 1520? Now, this is another one  
11 of the charts that you put together, correct, Ms. Spaulding?

12 A Yes.

13 Q By the way, did the prosecutors at any point ask you to  
14 make a chart of all of the actual -- did they ask you to look  
15 at emails, right, as well as some of these financial records,  
16 right?

17 A Yes.

18 Q Did they ever ask you if you could take all of the emails  
19 that actually reference information about lies to investors  
20 and make that into some kind of chart?

21 A No.

22 Q They just asked you to focus on these payments.

23 A Yes.

24 Q Okay. So let's look at 1520, and in 1520, we have --  
25 you're basically depicting four different layers of

SPAULDING - CROSS - MR. JACKSON

1511

1 transaction, correct?

2 A Four different time periods of transactions. I don't  
3 know about layers, but...

4 Q But that's -- I understand.

5 So just to be clear, there are four different levels  
6 on this -- four different, sort of, arrow flows on this chart,  
7 correct?

8 A Yes.

9 Q But, in fact, each one of these layers -- if you don't  
10 mind if I call them layers -- reflects multiple different  
11 transactions, correct?

12 A They reflect the transactions that are shown on the  
13 chart.

14 Q Right. And some of them represent multiple transactions  
15 within the layer, right? Like, there's one transaction from  
16 CS International at the top to Credit Suisse.

17 Do you see that?

18 A Yes.

19 Q And then there's another transaction from Credit Suisse  
20 paying Privinvest Shipbuilding, correct?

21 A Yes.

22 Q Now, you're aware that Credit Suisse is one of the  
23 largest banks in the world, correct?

24 A I'm aware that they are a very large bank.

25 Q Right. You know that they have over \$1 trillion in

SPAULDING - CROSS - MR. JACKSON

1512

1 assets under management?

2 A No.

3 Q Well, you know it's a lot of money, right?

4 A I know they are a very large bank.

5 Q You are aware that they manage many, many billions of  
6 dollars in assets, correct?

7 A No.

8 Q You have no idea what the actual number is.

9 A No.

10 Q Certainly, the prosecutors didn't ask you to take a look  
11 at all of the financial records of Credit Suisse to prepare  
12 these charts.

13 A No.

14 Q Now, what other documents, by the way, ma'am, did you  
15 utilize to create Government's Exhibit 1520?

16 A The Bank of New York Mellon wire transfers and also one  
17 of the SWIFT messages.

18 Q Okay. Do you know what the Government exhibit numbers  
19 are of those documents?

20 A No, not off the top of my head.

21 Q Now, the first logo that we see depicted here on  
22 March 21st, 2013, we see \$328 million being transferred from  
23 CS International to Credit Suisse AG, correct?

24 A Yes.

25 Q But, in fact, this was \$372 million loan, correct?

SPAULDING - CROSS - MR. JACKSON

1513

1 A I don't know.

2 Q Okay. And in the second transaction beneath that, you  
3 see that there's 90 million transferred from CS International  
4 to Credit Suisse AG, correct?

5 A Yes.

6 Q But, in fact, that was a hundred million dollar loan at  
7 face value, correct?

8 A I don't know.

9 Q Okay. You don't really have deep familiarity with the  
10 underlying loan structure involved here?

11 A No, I don't.

12 Q The structure of these types of loans can be wildly  
13 complex, correct?

14 MS. MOESER: Objection, Your Honor.

15 THE COURT: If you know.

16 A I don't really know.

17 Q You understand that they can be complex.

18 A They could be complex.

19 Q And then in this third transaction, what you have  
20 depicted is \$6,160,000 and \$7,040,000 on July 9th, 2013, going  
21 to CS International, correct?

22 A Yes.

23 Q Now, you are not actually trying to suggest with this  
24 chart that the money that came from ICE Global Credit and ICE  
25 3: Global Credit CLO Limited went directly into CS

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1514

1 International then into Credit Suisse AG and then that actual  
2 money went to Privinvest; that's not what you are suggesting,  
3 is it?

4 A No.

5 Q These are multiple different transactions that you are  
6 depicting, right?

7 A Well, there are several different transactions.

8 Q Right.

9 And, in fact, I'm correct, aren't I, that the ICE  
10 Global Credit CLO -- actually, before I ask that question, do  
11 you know what ICE Global Credit CLO is?

12 A No.

13 Q Do you know what a CLO is?

14 A No.

15 Q Do you know what ICE 3: Global Credit CLO is?

16 A No.

17 Q Did the prosecutors ask you to make these arrows from ICE  
18 Global Credit feed into CS International in this way?

19 A I don't think they specifically asked me to do that.  
20 That's the transaction that happened.

21 Q Okay. But did they ask you to try to figure out a way to  
22 make it look like ICE Global money was going to Privinvest?

23 A No.

24 Q Okay.

25 Now, in fact, this ICE Global Credit CLO money on

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1515

1 July 9th, it doesn't actually relate to the transaction  
2 between CS International and Credit Suisse that took place on  
3 August 14th, 2013, does it?

4 A I don't know.

5 Q You are not aware one way or the other.

6 A I don't know.

7 Q Well, let's take a look at Government's Exhibit 42, which  
8 is already in evidence.

9 MR. JACKSON: May we depict that, Your Honor?

10 THE COURT: Of course. If it's in evidence, you can  
11 show it to the jury without asking.

12 MR. JACKSON: Thank you, Judge.

13 BY MR. JACKSON:

14 Q So this is Government's Exhibit 42, okay? And --

15 MR. JACKSON: Is there any way to turn this screen  
16 on, Mr. Jackson?

17 THE COURTROOM DEPUTY: It should be just press the  
18 button on the side, sir. There you go. The power button.

19 MR. JACKSON: I apologize, ladies and gentlemen.

20 Thank you.

21 BY MR. JACKSON:

22 Q Okay. So here we have Government's Exhibit 42. And can  
23 you read what it says at the top, just the heading of this  
24 document?

25 A Form of Transfer Certificate.

SPAULDING - CROSS - MR. JACKSON

1516

1 Q And if you go down from there -- first of all, you see  
2 that it says to Credit Suisse AG, London branch as facility  
3 agent, correct?

4 A Yes.

5 Q And then it says Credit Suisse International and ICE 3:  
6 Global Credit CLO, correct?

7 A Yes.

8 MR. JACKSON: And if we can go to the third page of  
9 this, if we can blow up the top half of that, please,  
10 Mr. McLeod.

11 Q Now, can you see where it has -- if we are looking in the  
12 middle -- let me try that. Look at that. It's like magic.

13 So you can see here there is a June 25th, 2013,  
14 transaction reference here, correct?

15 A Yes.

16 Q And that's the transaction that is depicted --

17 MR. JACKSON: Can you put next to this Government's  
18 Exhibit 1520? Let me try that. Am I messing this up,  
19 Mr. Jackson? I'm sorry. I'm going to X it. I'm going to X  
20 it. Forget about it.

21 Q But can you see here the second layer of Government's  
22 Exhibit 1520? That's taking place on June 25th, 2013,  
23 correct?

24 A Yes.

25 Q And this document, Government's Exhibit 42 depicts --

SPAULDING - CROSS - MR. JACKSON

1517

1 relates to this transaction which happens on June 25th, 2013,  
2 correct?

3 A I don't know. I'm not familiar with this document. I  
4 can see the date, but...

5 Q The prosecutors didn't show you this document in  
6 preparing for your testimony.

7 A No.

8 Q Okay.

9 MR. JACKSON: Can we blow up the top half of  
10 Government's Exhibit 42?

11 Q You can see here that this is a transaction document  
12 between ICE 3: Global Credit CLO Limited and Credit Suisse  
13 International, correct?

14 A Yes.

15 Q And those were the exact entities that are depicted on  
16 the third layer of GX1520, correct?

17 A Yes.

18 Q And, in fact, they're not -- this transaction -- the  
19 amount you can see of this transaction, this is the -- this is  
20 the transaction that you have depicted in the first part of  
21 the third layer, right?

22 A I don't know.

23 Q Okay. So let me just ask you, ma'am, is it possible that  
24 Government's Exhibit 1520 got it wrong and this transaction  
25 that you have depicted with ICE Global is actually about

SPAULDING - CROSS - MR. JACKSON

1518

1 buying some of the loan that is depicted in the second layer?

2 A I don't know.

3 Q You're not sure whether this document is right at this  
4 point.

5 A Oh, I'm sure it's correct.

6 (Continued on the following page.)

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SPAULDING - CROSS - MR. JACKSON

1519

1 CROSS-EXAMINATION (Continued)

2 BY MR. JACKSON:

3 Q You're sure it's correct?

4 A I'm sure that it shows the transactions that took place  
5 in the chronological order that are shown on the flow chart.6 Q Okay. But all you were trying to do was chronological  
7 order?

8 A Yes.

9 Q Right. You're not sure that this transaction actually  
10 relates to the loan that took place on 8/14/2013, right?

11 A I don't know.

12 Q Okay. In fact, the prosecutors didn't walk through with  
13 you the mechanics or the details of a lot of the underlying  
14 loan structure, right?

15 A Correct.

16 Q So it's fair to say you have no idea whether the ICE  
17 Canyon money actually went to Privinvest Shipping?

18 A No, I didn't.

19 MR. JACKSON: You can take that down, Mr. McLeod.

20 Q By the way, do you know where ICE Canyon, the two ICE  
21 Canyon entities that are depicted in your chart, do you know  
22 where they're incorporated?

23 A No.

24 Q You have no idea whether it's in the United States, in  
25 Europe, or somewhere else, correct?

SPAULDING - CROSS - MR. JACKSON

1520

1 A I believe I saw an address on the document but I -- I'm  
2 not sure.

3 Q Okay.

4 MR. JACKSON: May I have one minute, Your Honor?

5 THE COURT: Of course.

6 (Pause.)

7 MR. JACKSON: Ma'am, thank you very much.

8 Appreciate your time.

9 No further questions, Your Honor.

10 THE COURT: Thank you. Any redirect?

11 MS. MOESER: No, Your Honor.

12 THE COURT: Thank you. You may step down.

13 (The witness was excused.)

14 THE COURT: All right. Call your next witness,  
15 please.

16 MR. MEHTA: Yes, Your Honor.

17 We call FBI Special Agent Jonathan Polonitza.

18 THE COURT: Okay. Please have the special agent  
19 brought forward and be sworn.

20

21

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23

24

25

POLONITZA - DIRECT - MR. MEHTA

1521

1 (Witness takes the witness stand.)

2 **JONATHAN POLONITZA**, called as a witness, having been first  
3 duly sworn/affirmed, was examined and testified as follows:4 THE COURTROOM DEPUTY: You do solely swear or affirm  
5 the answers you are about to give the court, are the truth the  
6 whole truth and nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE COURT: Please be seated, sir.

9 Please state and spell your name clearly for the  
10 record.11 The microphone in front of you will swivel to you,  
12 if the green light's lit, and keep the microphone right below  
13 where you speak. We will hear it clearly by counsel and by  
14 the jury.15 Okay, please state your name, spell it, and then  
16 counsel will inquire.17 THE WITNESS: Sure. First name Jonathan,  
18 J-O-N-A-T-H-A-N; last name, Polonitza, P-O-L-O-N-I-T-Z-A.

19 THE COURT: Thank you.

20 You may inquire, counsel.

21 MR. MEHTA: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. MEHTA:

24 Q Good afternoon.

25 A Good afternoon.

POLONOTZA - DIRECT - MR. MEHTA

1522

1 Q Sir, where do you work?

2 A The Federal Bureau of Investigation.

3 Q And what is your title?

4 A Special agent.

5 Q How long have you been a special agent?

6 A Approximately nine years.

7 Q And prior to becoming a special agent with the FBI, tell  
8 us what your background is?

9 A I received a bachelor's degree in finance, and after  
10 getting my bachelor's degree in finance, I became a financial  
11 analyst.

12 Q What is your employment background prior to joining the  
13 FBI?

14 A I was a financial analyst for several years after  
15 graduating college.

16 Q And when you joined the FBI, were you did you receive  
17 training?

18 A I did.

19 I went to the academy at Quantico, Virginia.  
20 Received quite a bit of training there.

21 Upon graduation, I've been in New York for  
22 approximately a little over eight years.

23 I have attended and participated in countless  
24 trainings over the years. Trainings and conferences monthly,  
25 quarterly, annual basis; online and in person; on matters such

POLONITZA - DIRECT - MR. MEHTA

1523

1 as fraud, money laundering, investigative techniques and a  
2 variety of other topics.

3 Q What unit are you currently assigned to at the FBI?

4 A I'm on a white collar squad in the criminal division of  
5 FIB New York.

6 Q Are you familiar with an investigation into the  
7 defendant, Jean Boustani?

8 A I am.

9 Q What role, if any, did you play in the investigation?

10 A A very minimal role up until recently when I was asked to  
11 review hundreds of emails in preparation for today.

12 Q Did you interview anyone in connection with the  
13 investigation?

14 A I did not.

15 Q Did you review any notes of any interviews in the  
16 investigation?

17 A I did not.

18 Q Are you familiar with all the facts of the investigation?

19 A No.

20 MR. MEHTA: Your Honor, at this time I'd like to  
21 move into evidence, or offer, Your Honor, a number of exhibits  
22 to maybe make it smoother.

23 THE COURT: Smooth is good.

24 MR. MEHTA: All right. I'm going to do about 20 to  
25 begin with, and we'll take it from there.

POLONITZA - DIRECT - MR. MEHTA

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1 THE COURT: All right.

2 Have you discussed these with opposing counsel?

3 MR. MEHTA: I have, Your Honor. There's no  
4 objection.5 THE COURT: Why don't you call them out, I'll let  
6 you do 20, and at the end of the 20, I'll ask defense counsel  
7 if they have any objection to any of the 20.

8 MR. MEHTA: Yes, Your Honor.

9 3190, 3191, 3191A, 3191B, 3192, 2007, 2012, 2013,  
10 2015, 2016, 2018, 2018A, 2018B, 2018C, 2046, 2044, 2044A,  
11 2044B, 2021, 2020. And, Your Honor, I apologize, for 2021,  
12 there's an attachment, 2021A.13 THE COURT: Any objection to any of the documents  
14 that counsel has just identified?

15 MR. SCHACHTER: No objection, Your Honor.

16 THE COURT: They're admitted. You may publish them  
17 to the jury.18 (Government Exhibit 3190, 3191, were received in  
19 evidence.)20 (Government Exhibit 3191A, 3191B, 3192, were  
21 received in evidence.)22 (Government Exhibit 2007, 2012, 2013, were received  
23 in evidence.)24 (Government Exhibit 2015, 2016, were received in  
25 evidence.)

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1 (Government Exhibit 2018, 2018A, 2018B, 2018C, were  
2 received in evidence.)

3 (Government Exhibit 2046, was received in evidence.)

4 (Government Exhibit 2044, 2044A, 2044B, were  
5 received in evidence.)

6 (Government Exhibit 2021, 2020, and 2021A, were  
7 received in evidence.)

8 MR. MEHTA: Yes, Your Honor, I'm going to start with  
9 the first one I referenced, Your Honor. It's going to be  
10 3190.

11 (Exhibit published.)

12 THE COURTROOM DEPUTY: Laptop?

13 MS. DINARDO: Yes, please.

14 MR. MEHTA: Can we blow up this bottom email.

15 BY MR. MEHTA:

16 Q Agent Polonitza, can you read that bottom email to the  
17 jury?

18 A Sure. This is an email from Basetsane Thokoane.

19 THE COURT: Would you spell that for the reporter,  
20 please?

21 A First name T-H-O-K-O-A-N-E. Last name,  
22 B-A-S-E-T-S-A-N-A. To Jean Boustani. Dated April 16th, 2011  
23 with the subject of way forward.

24 Q Can you read the email, please?

25 A Morning. Mozambique is consolidated marine

1 infrastructure, hydro dam, leisure, hospitality and  
2 agriculture for now. This is high level. What will be the  
3 way forward.

4 Regards B.

5 MR. MEHTA: Can we see the defendant's response,  
6 please?

7 (Exhibit published.)

8 Q Can you plead read that email, sir?

9 A Hi. You should tell me how to advance. I am ready.

10 Shall we start with the meeting the president, question mark.  
11 Or do we tackle it project by project, question make.

12 I'm all yours, my dear.

13 MR. MEHTA: Can we go to 3191 next.

14 (Exhibit published.)

15 MR. MEHTA: Can we enlarge, please. Thank you.

16 Q Can you read the email, sir.

17 A This is an email from Jean Boustani to Logistics

18 International, dated May 8th, 2011 with the subject line of  
19 Mozambique.

20 Attached are a draft letter addressed to the  
21 president of Mozambique which needs to be put on the  
22 Privinvest Holding letterhead.

23 A note highlighting a macro view of the country for  
24 your info. I need also please with the letter your profile,  
25 slash, CV.

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1 I will be sending them also the different websites  
2 of the group. Privinvest, CMN, Nobiskrug, HSY, KDM.

3 Basetsane Thokoane is my South African friend who is  
4 arranging the meeting and work there.

5 Q Are there attachments to this document?

6 A There is.

7 MR. MEHTA: Okay. Let's start with the first one,  
8 3191A.

9 (Exhibit published.)

10 Q And can you see who it's to please, first, the top left  
11 corner?

12 A President Armando Guebuza from Mozambique.

13 MR. MEHTA: Back out. Can we see the actual letter.  
14 Thank you.

15 Q Can you read that please, sir?

16 A Mr. President, in the outset, I am honored to visit is  
17 the Republic of Mozambique and meeting with you.

18 Miss Basetsane Thokoane of Twende Pamoja --

19 THE COURT: Would you spell Twende Pamoja for the  
20 reporter?

21 THE WITNESS: Sure.

22 T-W-E-N-D-E. P-A-M-O-J-A.

23 A -- has been discussing with our group in, quotes,  
24 Privinvest Holding various aspects related to the perspectives  
25 of foreign direct investments, FDI, in the Republic of

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1 Mozambique.

2                   With this in mind, I look forward to our meeting as  
3 soon as it is convenient for you to discuss investment  
4 opportunities in the Republic of Mozambique and to develop  
5 mutual beneficial endeavors.

6                   Sincerely, Iskandar Safa.

7                   MR. MEHTA: Go to the second attachment, 3191B.

8                   (Exhibit published.)

9                   MR. MEHTA: And can you blow up the first half.

10 Q                Can you see where it says "president", sir?

11 A                Yes.

12 Q                Can you read that please?

13 A                Armando Guebuza.

14                   MR. MEHTA: And can we go down to the second half of  
15 this page?

16 Q                Do you see where it says "GDP"?

17 A                I do.

18 Q                Can you read that, please?

19 A                2009 estimate. Total 19.762 billion.

20                   Per capita, \$933.

21 Q                And can you read the currency is, please?

22 A                Mozambican metical.

23                   MR. MEHTA: Can we go to page 5 of this document,  
24 please?

25                   (Exhibit published.)

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1 MR. MEHTA: And can you please blow up the middle  
2 part, please?

3 Q And can you please read the second paragraph, sir?

4 A Presidential and national assembly elections took place  
5 on December 1st through the 2nd of 2004.

6 FRELIMO candidate Armando Guebuza won with  
7 64 percent of the popular vote.

8 His opponent Alfonso Dhlakama of RENAMO received  
9 32 percent of the popular vote.

10 MR. MEHTA: Let's go to 3192, please.

11 Can we go to the second page.

12 (Exhibit published.)

13 MR. MEHTA: Stop there, please.

14 Can you blow up the email from the defendant, Jean  
15 Boustani.

16 Q Read the email from the defendant.

17 A This is an email from Jean Boustani to Basetane Thokoane  
18 dated September 8th, 2011 with the subject regarding NDA.

19 Bassy, I feel that Rosario and Teo want a weaker and  
20 shorter NDA. So they can bring other companies working in EEZ  
21 in case they don't get it for us in less than a year and/or we  
22 disagree over their cut. I don't trust them at all.

23 The professor keeps on quote/unquote lecturing. He  
24 needs to say I will get this deal and my bosses and I want X  
25 amount of dollars.

POLOMIZA - DIRECT - MR. MEHTA

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1 MR. MEHTA: Back out of this, please.

2 Can we go up to the top, please? Keep going.

3 Q Can you read the email from Basesane Thokoane?

4 A Email from Basesane Thokoane to Jean Boustani dated  
5 September 90, 2011. With the same subject of regarding NDA.

6 Morning. If that's the case, let's proceed with the  
7 NDA. Rosario is optimistic insists on three months. They  
8 want to sign today 'cause they've already lined up meetings  
9 for the next week.

10 Q Would you read the defendant's response, please?

11 A The response is: We will not change any word in the NDA.  
12 One year. It is standard. It is Rosario who is sending a  
13 negative message by negotiating the NDA terms.

14 MR. MEHTA: Can we go to Exhibit 2007 now.

15 Can we go to the bottom email on page 4.

16 (Exhibit published.)

17 MR. MEHTA: Blow it up, please.

18 Q Can you read the email, please, sir.

19 A There an email from Teofilo Nhangumele to Jean Boustani  
20 dated November 11th, 2012 with the subject of way forward.

21 Dear brother, Jean. This is between you and me and  
22 in confidence. You will agree if I say that the success of  
23 this project will depend in considerable a degree on the level  
24 at which we communicate openly and accommodate the interest of  
25 the parties involved.

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1 THE COURT: You are about to cross the line.

2 Slow, deliberate, Lord Vader speech pattern, and the  
3 too quick, Woody Allen, Chris Rock, Wanda Sykes speech  
4 pattern.

5 My fancy way of saying, when you're reading, make  
6 sure you read slowly.

7 THE WITNESS: I understand.

8 THE COURT: Continue with: You will also.

9 A You will also agree that closing a deal of this size is  
10 not an easy task for both of us since there are few interests  
11 involved. There is increasing expectation in the upcoming  
12 visit to Abu Dhabi, given the new impetus that has been given  
13 to the deal.

14 The team that I am assembling is very crucial for  
15 the success of the deal, since we are the ones who will  
16 produce the report which will determine whether or not the  
17 project will take off.

18 To secure that project is granted a go-ahead by the  
19 HOS, a payment has to be agreed before we get there so that we  
20 know and agree well in advance what ought to be paid and when.

21 Whatever advance payments to be paid before the  
22 project, they can built -- they can be built into the project  
23 and recovered.

24 We see this advance payment as an investment and not  
25 a cost to the project. In the end of the day, whatever monies

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1 paid will be recovered. I trust this should be fine with...

2 MR. MEHTA: Can we see the defendant's response.

3 (Exhibit published.)

4 A The response was: Dear brother, Teo.

5 I am very glad that we are now talking openly. Our  
6 group operates with the principal of quote/unquote success fee  
7 in favor of our local partners which will be added to the  
8 final project value. A very important issue which needs to be  
9 clear, we had various negative experiences in Africa,  
10 especially related to the quote/unquote success fees payments  
11 and, therefore, we have a strict policy in the group  
12 consisting of not disbursing any quote/unquote success fee  
13 before the signature of the project contract.

14 The quote/unquote success fee disbursements will be  
15 also divided proportionally to the project payment  
16 installments.

17 A detailed quote/unquote success fee's agreement  
18 will be signed between us before the project contract  
19 signature to make all things clear.

20 Meanwhile, our group will be gladly inviting you to  
21 Abu Dhabi in taking care of all the related expenditures.

22 I trust the above is logical and comfortable for  
23 you, brother.

24 MR. MEHTA: Can we see the response from Jean  
25 Boustani.

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1 Q Read that, please.

2 A Response was: Dear, brother. Fabulous. I agree with  
3 you in principal.

4 Let us agree and look at project in two distinct  
5 moments. One moment is to massage the system and get the  
6 political will to go ahead with the project. The second  
7 moment is the project implementation execution.

8 I agree with you that any monies can only be paid  
9 after the project signing. This has to be treated separately  
10 from the project implementation. I will tell you why.

11 Because for the project implementation, there will  
12 be other players whose interest will have to be looked after;  
13 e.g., ministry of defense, ministry of interior, Air Force, et  
14 cetera.

15 At the present moment, all these people are not  
16 directly involved. Our task as levy is to ensure that the  
17 project is given a formal go-ahead, and a success fee for that  
18 has to be guaranteed.

19 Of course, we will not walk out of the project, as  
20 we will continue to offer our support and ensure that nothing  
21 is compromised.

22 You will agree with me if I say that in democratic  
23 governments like ours, people come and go, and everyone  
24 involved will want to have his or her share of the deal while  
25 in office, because once out of the office, it will be

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1 difficult. So it is important that the contract signing  
2 success fee be agreed and paid in a once-off upon the signing  
3 of the contract.

4 The project implementation fees and commissions can  
5 be paid as monies are being paid to your organization. We  
6 will still be in the system to facilitate communication and  
7 managing the stakeholders to ensure the success of the project  
8 exhibit.

9 I trust this is fine and acceptable to you.

10 MR. MEHTA: Can we see the response from the  
11 defendant, please?

12 (Exhibit published.)

13 A The response was: Good morning, brother.

14 This is good news.

15 However, there is an element of quote/unquote  
16 marriage between us which must be cemented.

17 Brother Teo, I want MULEPE to be our local partner  
18 in Mozambique. Ultimately forming a joint venture between  
19 ADMAR and MULEPE for the execution of the project.

20 MULEPE imperative and paramount role is to ensure  
21 that it acts as the quote/unquote the one and only hub for the  
22 disbursement of all quote/unquote success lobbying and other  
23 projects related fees.

24 We will not and simply cannot deal with various  
25 parties in Mozambique for this subject. It has to be managed

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1 and controlled by MULEPE, as the whole sole interface between  
2 ADMAR and the Mozambique authorities. Different project  
3 actors. So the quote/unquote success fees agreement has to  
4 enclose from now all actors.

5 I am sure that you will fully endorse this issue.  
6 Awaiting the delegation list and passport copies ASAP.

7 MR. MEHTA: And can we see the next email, please,  
8 in the chain from Mr. Nhangumele.

9 Q Can you read that please, sir?

10 A The response was: Brother, we are making a steady  
11 progress. I also agree with your approach of cementing the  
12 relationship with MULEPE.

13 This has to be concluded as soon as possible. I  
14 want you, brother, to agree that the project go-ahead is a  
15 crucial milestone and, therefore, all the effort has to be  
16 remunerated.

17 Are we in agreement on this point, question mark.  
18 MULEPE will continue to represent your best interests in  
19 Mozambique until the completion of the project implementation.

20 Brother, I am being frank and open with you. We  
21 have people to pay to ensure that the project is given a  
22 go-ahead. I am begging you to understand this and come in my  
23 support.

24 I am talking to you as a partner now, we have to  
25 release funds to ensure that the go-ahead is given. You and

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1 me will continue to work on the budget of the entire operation  
2 in Mozambique until the completion of the project. But for  
3 this stage, some payments have to be made.

4 MR. MEHTA: Can we see the defendant's response?

5 (Exhibit published.)

6 A Hi, brother. What is the size of the fund we are talking  
7 about? What about the budget of the Mozambique authorities  
8 for EEZ?

9 Brother, the mechanism is simple. The delegation is  
10 invited by us to Abu Dhabi. Contract negotiations are on in  
11 Abu Dhabi.

12 The most critical points are budget, which  
13 Mozambique authorities will allocate for the project, plus  
14 quote/unquote success fees of MULEPE to be added on top of the  
15 budget.

16 Delegation returns to Maputo with a draft EEZ  
17 contract between Mozambique government and ADMAR. And the  
18 draft quote/unquote success fees contract between ADMAR and  
19 MULEPE.

20 The project will start with an advance payment from  
21 the Mozambique government to ADMAR. From this advance  
22 payment, the quote/unquote success fees will be disbursed.

23 Brother, nowadays in all international contracts  
24 quote/unquote success fees are paid proportionally to the  
25 installments in order to ensure a true partnership between the

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1 partners.

2                    Nevertheless, a clear quote/unquote success fee's  
3 agreement has to be signed before the EEZ contract to protect  
4 MULEPE and other project stakeholders.

5                    I want to add a very important element. The EEZ  
6 project will include massive civil and infrastructure works in  
7 Mozambique.

8                    These must be undertaken by MULEPE. These works  
9 constitute a very substantial part of the total project,  
10 excluding the quote/unquote success fees.

11                   So, please, I beg you to educate the various parties  
12 in Mozambique to build our endeavor on a quote/unquote medium  
13 to long-term basis and not as a quote/unquote hit-and-run  
14 exercise.

15                   (Continued on next page.)

16

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1 DIRECT EXAMINATION (Continued)

2 MR. MEHTA: Can we go to 2012. And again to the  
3 bottom email on page 3.4 Q And can you read the email from the defendant on  
5 December 27, 2011.6 A Brother, presentation of ADM attached. You will have a  
7 fully fledged proposal in the coming hours. Any updates from  
8 your side?

9 Q And the response from Moran Harpazi?

10 A The response from Moran Harpazi on December 27, 2011 to  
11 Jean Boustani was: Hours, question mark.

12 Q And the response from the defendant?

13 A The response was could be 72, smiley face. Teo is  
14 pressing a lot so I thought of, quote/unquote, easing him  
15 down.

16 Q The next email please up the chain. Read that please.

17 A Hi Jean, the document is ready to be sent as a first  
18 draft for internal use. We still do not have the partners  
19 number. Please check and let me know so we can update the  
20 numbers.21 MR. MEHTA: Can you please go up to the next email  
22 please.

23 Q The response from the defendant. Go ahead.

24 A Hi Moran, they don't want to give their numbers. They  
25 want our figure and add up on it. That is why I suggest we

1 address this proposal to Armando Guebuza personally and not  
2 the MOD since he requested it in the last meeting at  
3 Nobiskrug. In that case, we avoid any, quote/unquote,  
4 official correspondence of numbers which might have potential  
5 effects at the end once we add the, quote/unquote, fees of the  
6 partners.

7 Q And what's the response of Mr. Harpazi to the defendant?

8 A I do not think we can provide it directly to Armando,  
9 exclamation mark. We must have the numbers from them. How  
10 can we do business otherwise, question mark. We can send the  
11 document without numbers, but it will not fulfill the need  
12 they mentioned. Tell Teo that if he wants the proposal he can  
13 get it after we know all the numbers. It's too far down to  
14 avoid this.

15 We can send out a proposal with 20 percent for the  
16 partners and let them know that this is the reference.

17 What does Bassy say here?

18 Q And the defendant's response please, read that please,  
19 sir.

20 A Spoke to him and pushed, gently, smiley face. Give me 30  
21 minutes and I will give you the Mozambique figures plus Bassy.

22 FYI, they asked me to address the offer to the  
23 president personally.

24 MR. MEHTA: Let's go to the next exhibit. That's  
25 going to be Government Exhibit 2013, please. Again, the

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1 bottom email in the chain.

2 Q And, sir, can you please read the email from  
3 Mr. Nhangumele to Mr. Boustani, the defendant.

4 A Brother, I have been conducting extensive consultation in  
5 relation to the above. But definitely there is no figure to  
6 be thrown out from our side. As I indicated to you, we have  
7 no basis whatsoever to estimate the cost of this solution.  
8 Only you and your team, brother, know the costs of radars and  
9 stuff.

10 Please feel free to give us the real cost of the  
11 medium solution as we discussed and agreed.

12 Please let's move on with whatever figure you have  
13 in mind and we will take it from there.

14 Q And who is it from, Best regards?

15 A Best regards, Teo.

16 Q Can you go up please.

17 And he's referencing this email from Mr. Boustani,  
18 correct?

19 A Correct.

20 Q The earlier email, can you read that please, from the  
21 defendant?

22 A Brother, I can't push my board to publish any figure  
23 without adding the stakeholders portion. I need a percent or  
24 figure. You know our range, bro. I need yours too. The  
25 proposal will be addressed to Hos, the big boss, after

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1 clubbing all figures. It is a must.

2 If it is too early, I can send you the proposal for  
3 the concept with no figures.

4 Q Can we go up to the response from Mr. Nhangumele.

5 A The response from Mr. Nhangumele to Jean Boustani, dated  
6 December 28th, 2011 was, Fine, brother. I have consulted and  
7 please put 50 million chickens. Whatever numbers you have on  
8 your poultry I will add 50 million of my breed. Regards, Teo.

9 Q And the response from the defendant?

10 A Lots of legs.

11 I love your chicken, bro.

12 Done.

13 Q Can we go to the next exhibit, please, 2015.

14 THE COURT: So that's what LOL means. Go ahead.

15 MR. MEHTA: And can we go the first page, the top  
16 two emails, Ms. DiNardo. Can you blow it up please.

17 Q We saw the below email just now, right, the 3 million  
18 chickens?

19 A Correct.

20 Q And it's being forwarded by Mr. Boustani, do you see  
21 that?

22 A I do.

23 Q To who?

24 A Basetana Thokoane.

25 Q Can you read the email from the defendant.

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1542

1 A FYI. Lots of legs for chickens. I will add 62 million  
2 in total. 12 million for you and I equals 5 percent because  
3 the budget we put is approximately 240 million.

4 MR. MEHTA: Can we go to the next exhibit, that's  
5 going to be 2016. Again, if you want to just blow up the  
6 bottom two emails.

7 And we have the chickens email that's being  
8 forwarded again from Mr. Boustani to Moran Harpazi, do you see  
9 that?

10 A I do.

11 Q Can you read that, please.

12 A FYI. 50 million for them and 12 million for Bassy,  
13 5 percent. Total is 62 million on top. Report to be  
14 addressed to the president personally.

15 Q Can we go up please in that email to the response.

16 Actually I think it's the defendant again.

17 MR. MEHTA: Keep going please. There you go.

18 Q Read that please, sir.

19 A IS is okay with proposal.

20 Q Do you remember seeing a letter earlier in the documents  
21 from Iskandar Safa?

22 A I do.

23 Q What are his initials?

24 A IS.

25 Q Can you go further up, please, in the next email from the

1 defendant.

2 Read that, sir.

3 A Good morning. Shall I send the proposal now, question  
4 mark. IS gave his okay.

5 Q Can we go to the next Government Exhibit 2018 and blow  
6 that up, please. Thank you.

7 Sir, read the email, please.

8 A This is an email from Jean Boustani to Teo Nhangumele  
9 dated December 31st, 2011.

10 Brother Teo, the EEZ proposal addressed to HoS.  
11 Awaiting your feedback.

12 Q We saw HoS earlier as well, didn't we?

13 A We did.

14 Q Based on the review of the documents here, it's saying  
15 it's addressed to HoS, what's the attachment, the letter to  
16 who?

17 A The president.

18 Q Based on that, what does HoS refer to?

19 A Head of State.

20 MR. MEHTA: Look at the attachment, please. It's  
21 going to be 2018-A. Can you blow that up please. Can we go  
22 to 2018-C.

23 Can you see who the letter is addressed to?

24 A Yes. Armando Guebuza, the president of Mozambique.

25 MR. MEHTA: And can we actually go down to the

1 letter.

2 Q And without reading the entire letter, can you just read  
3 the first sentence.

4 A Abu Dhabi MAR group ADM is honored to propose for the  
5 government of Mozambique an Exclusive Economic Zone, EEZ,  
6 Monitoring and Protection System.

7 MR. MEHTA: And can you go to the second page,  
8 please. Blow that up, please.

9 Q Can you read that sentence and who is it signed by?

10 A With this in mind, I look forward to our meeting as soon  
11 as it is convenient for you to conclude and launch this  
12 project. Sincerely, Iskandar Safa, chairman.

13 MR. MEHTA: Can we go to 2018-B. And can we blow up  
14 the top please first.

15 Q Can you read that, please, sir, the top sentence under  
16 Program Total Price.

17 A The prices for the proposed tasks and deliverables as  
18 described in the, quote, Mozambique EEZ Monitoring and  
19 Protection Solution, document ending in zero one, dated  
20 December 31st, 2011, are as follows.

21 Q And can you just kind of scroll down. Do you see the  
22 various system components listed, Mr. Polonitza?

23 A I do.

24 Q And keep going down, please. At the bottom is there a  
25 final price?

1 A There is.

2 Q Can you read that please to the jury.

3 A \$352,650,067.

4 MR. MEHTA: Can we go to Government Exhibit 2046 and  
5 on this one can we go to the bottom of page 1.

6 Q And can you read that email, just first sentence and just  
7 tell us from/to/date and the first sentence.

8 A This is an email from Dolphin Global LTD to Logistics  
9 International, sent on July 11th, 2012, that reads:

10 Hi Sandy, please find attached updated draft  
11 proposals for Mozambique EEZ program.

12 Q And is this copied to the defendant Jean Boustani, this  
13 email?

14 A It does.

15 Q Do you see where it says, Main Changes as Follows?

16 A I do.

17 Q Can you read the first three points.

18 A Number 1: Finance costs. \$40 million which need to be  
19 absorbed in the proposal.

20 Number 2: Additional commission of \$3 million.

21 And number 3: Total budget raised from \$352 million  
22 to \$355 million.

23 Q If we can just go back to number 2015 and if you could  
24 just go to the second email -- I'm sorry, the top email.

25 What is the total amount for the additional amount

1 listed there, the "I will add," what's that amount total?

2 A 62 million.

3 Q And then what number do you see there in the prior  
4 exhibit for commissions?

5 A 3 million.

6 Q If you add that up it's \$65 million?

7 A That's correct.

8 Q Can we go to Government 2044.

9 Can we see the top email, it's from the defendant?

10 A Correct.

11 Q It's forwarding an email; is that correct?

12 A It is.

13 MR. MEHTA: Can we scroll down.

14 Q Can you read what he's forwarding?

15 A Hi, attached is the updated commercial proposal with the  
16 following updates:

17 Number 1: Payment schedule changed as communicated.

18 The previous one was program oriented. This one is,  
19 quote/unquote, bank related.

20 Additional 3 million commission as communicated.

21 Number 3: Systems changes.

22 Two mobile radars instead of four.

23 One HF radar instead of three.

24 Costs and price breakdown and the updated technical  
25 proposal is attached for your review.

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1 Q And there is an attachment; is that correct?

2 MR. MEHTA: Can you go up and go to 2044-A.

3 Q Do you see the attachment?

4 A I do.

5 MR. MEHTA: Can we blow up just top title so the  
6 jury can see the title, please.

7 Q Read that please, sir.

8 A Mozambique EEZ program Phase 1, cost and price.

9 MR. MEHTA: Can you come out of there again.

10 Q You see where it says confidential next to it?

11 A I do.

12 MR. MEHTA: Can we blow up just the top left chart,  
13 the first four rows.

14 Can you read that, ladies and gentlemen?

15 Q Do you see various assets and quantities and costs on  
16 this?

17 A I do.

18 Q For example, do you see the top one says, Manned Radar  
19 Stations?

20 A I do.

21 Q Quantity six?

22 A Correct.

23 Q What's the unit cost?

24 A 1 million.

25 Q And then you see where it says, Mobile Radar Station?

1 A I do.

2 Q How many of those are there?

3 A Two.

4 Q How much do they cost?

5 A 800,000 a piece.

6 Q Do you see where it says, OPV?

7 A I do.

8 Q How many of those are there?

9 A Two.

10 Q How much do they cost?

11 A Twenty-seven and a half million.

12 Q And then at the bottom do you see a total price for the  
13 project?

14 A I do.

15 Q The EEZ project?

16 What is it?

17 A 170,423,000.

18 MR. MEHTA: Let's come out of this chart.

19 The bottom left chart, please, blow it up.

20 Q Can you read that, please, the whole chart?

21 A Cost to price equals cost plus risk, plus profit, plus  
22 partners, plus finance.

23 Total costs, 170,423,000.

24 ADM risk, 10 percent 17,042,300.

25 ADM profit, 25 percent, 62,488,433.

1 MR. MEHTA: Can you move it back to where it was.

2 Thank you.

3 A Partners, 65 million. Finance, 40 million. And the  
4 grand total, 354,953,733.

5 Q Is the 65 million-dollar number similar to the number we  
6 saw earlier when we added up the chickens and the commission?

7 A Yes.

8 MR. MEHTA: Can we come out of this please. Let's  
9 go to the next -- can we blow up the first seven rows so it's  
10 going to be -- exactly. And maybe just do the first half or  
11 it maybe too small I think.

12 Q Do you remember we saw manned radar stations?

13 A Yes.

14 Q You see the unit cost?

15 A I do.

16 Q What is that?

17 A The ADM unit price is 2,082,781.

18 Q Is that more than double the unit cost in Column 3?

19 A It is.

20 Q Remember we looked at mobile radar stations?

21 A I do.

22 Q How much were those for a unit cost?

23 A 1,666,225.

24 Q And is that more than double the column in Column 3?

25 A It is.

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1 Q And then look at the OPV, what's the ADM unit price?

2 A 57,276,469.

3 Q And that's approximately \$30 million more than the price  
4 listed on the third column?

5 A Approximately, yes.

6 Q More than double?

7 A Correct.

8 Q And can we keep scrolling down, please, on this. In  
9 fact, all of these items are more than double; is that right?

10 A It appears so, yes.

11 Q And we get to the total, what's the total price now?

12 A 354,953,733.

13 Q Is that over a hundred and 84 million dollars more than  
14 the cost?

15 A Approximately, yes.

16 MR. MEHTA: Let's go to Government Exhibit 2020 --  
17 I'm sorry 2044-B.

18 Q This is a price proposal?

19 A Yes.

20 Q Can you go to total price at the bottom.

21 A \$354,953,733.

22 Q Is that the same as the total price that we just saw in  
23 the prior exhibit?

24 A It's the exact same, yes.

25 MR. MEHTA: Can we go now to 2021. Can we blow up

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1 the top first, please, the top email.

2 Q Who is this from? Who is it to? Can you read it,  
3 please?

4 A This email is from Jean Boustani to Said Freiha, subject  
5 regarding Mozambique dated February 20th, 2012.

6 Q Read it, please.

7 A Hi, Said. Answers in red.

8 Q Can we scroll down, please. You see there are a number  
9 of questions?

10 A I do.

11 Q From Said Freiha at Credit Suisse.com?

12 A I do.

13 Q Dear Jean, do you see that?

14 A Yes.

15 Q Can you look at the last bullet, it's the fourth one.

16 MR. MEHTA: Can we blow that up please.

17 Q Can you read that, please.

18 A The Mozambique government never pays market rates and  
19 typically deals get done on the basis of a subsidy to be paid  
20 by the contractor to the lender -- the contactor to the  
21 lender. Will that be the case here and what is the  
22 profitability of the project for you, question mark.

23 Q Can you read the answer by defendant Jean Boustani.

24 A As discussed, Abu Dhabi MAR does not want the deal in the  
25 financing of this project.

1                   THE COURT: Does not want to deal.

2 A   Does not want to deal in the financing of this project.

3                   The sole borrower is the Mozambican government who  
4 will then open an LC in favor of Abu Dhabi MAR. The  
5 Mozambique government will be directing local banks to  
6 participate in this syndication.

7                   All guarantees for the loan to be given by the  
8 authorities to CS. A, quote/unquote, premium is well expected  
9 by the Mozambicans. Abu Dhabi MAR built up this project since  
10 August 2011 on a, quote, cost plus basis together with the  
11 Mozambican authorities.

12                  Our profit approximately 10 percent and this is why  
13 and how we got selected.

14 Q   Can we go back to 2044-A, the bottom left chart, please.  
15 You see where it says, Profit?

16 A   I do.

17 Q   What does it say?

18 A   25 percent.

19 Q   And then you see where it says, Risk?

20 A   Yes.

21 Q   What does that say?

22 A   10 percent.

23 Q   What's the total risk and profit together in amount of  
24 money approximately?

25 A   It's 35 percent for a total of approximately \$79 million.

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1 Q Can we go to Government Exhibit 2020, please. And is  
2 this an email that's being forwarded by the defendant?

3 A Yes.

4 Q From an email he had sent?

5 A Yes.

6 Q Can you just kind of give the details of those emails,  
7 please.

8 A Sure. So the original email appears to be an email from  
9 Jean Boustani to Teofilo Nhangumele dated January 20th, 2012,  
10 with the subject of consultancy agreement.

11 MR. MEHTA: Can we look up the attachment, it's  
12 going to be 2020-A. Can you blow up the top, please.

13 Can you read the second paragraph.

14 A Whereas, company wishes to participate in a consortium or  
15 otherwise to execute a contract to provide Exclusive Economic  
16 Zone Monitoring and Protection Solution based on the proposal,  
17 reference ending PRJ01, dated on December 31st, 2011 with a  
18 total value of 352,650,067 U.S. dollars. The, quote/unquote,  
19 project for the Republic of Mozambique, the, quote/unquote,  
20 client.

21 Q Can we go down to page 2, please. Do you see where it  
22 says, Compensation for Services?

23 A I do.

24 Q Can you read Section 7.1.

25 A 7.1. Company shall pay consultant as compensation for

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1 its services pursuant to this agreement a fee equal to  
2 50 million U.S. dollars including VAT representing  
3 14.178 percent of the value of the proceeds of the project  
4 received following the successful award of the project to the  
5 company.

6 Q Can you go back to 2015. You see the number \$50 million  
7 here?

8 A I do.

9 MR. MEHTA: Go back to 2015, please. Can you blow  
10 up the second email from Mr. Nhangumele.

11 Q Is the 50 million-dollar number the same as the  
12 50 million chickens number Mr. Nhangumele refers to there?

13 A It is.

14 MR. MEHTA: Can you come out of that please. Let's  
15 go back to the contract, 2020-A.

16 Q And can we just see what the company is called here, it's  
17 going to be in the first paragraph.

18 A Abu Dhabi MAR LLC.

19 Q And can we go to the -- I'm going to tell you it's going  
20 to be page 2 again under covenants and warranties and  
21 representations.

22 MR. MEHTA: I want you to blow up provision 5.2.

23 Q Read that, sir, please?

24 A 5.2. Consultant represents and warrants that neither  
25 consultant nor any of its shareholders, directors, officers,

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1 employees or consultants is officials or public servants of  
2 any government or state authority or directors or employees of  
3 any state-controlled company or entity.

4 MR. MEHTA: Can we go to Government Exhibit 2027.

5 Let's go to page 2, the bottom email. Blow that up, please.

6 Q You see this is an email from Jean Boustani the  
7 defendant?

8 A I do.

9 Q Details please and read the email, please.

10 A Email from Jean Boustani to Said Freiha, Surjan Singh,  
11 Edward Kelly CC Teofilo Nhangumele sent on March 7th, 2012  
12 with the subject of MOZ EEZ project.

13 Q Read the email please.

14 A Dear Said, Surjan and Kelly, I have communicated with  
15 Mr. Teofilo Nhangumele copied in this email yesterday night.  
16 Mr. Nhangumele heads the team assigned to the EEZ project from  
17 the office of HE, the president.

18 Q Do you remember seeing a reference to HE earlier?

19 A I do.

20 Q In front of Mr. Armando Guebuza's name?

21 A Yes.

22 Q Do you know what that refers to?

23 A I believe it refers to his excellency.

24 Q Keep reading, sir.

25 A The team is finalizing internal procedures and will

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1 shortly engage with Credit Suisse and Abu Dhabi MAR over the  
2 relevant details pertaining to the financing agreement,  
3 project contract and implementation plans.

4                    Nevertheless, for any queries, please do not  
5 hesitate to contact Mr. Nhangumele on his cell number ending  
6 in 75140 in case you need to expedite financing matters,  
7 quote/unquote, in advance. Regards, Jean.

8 Q    Can you see the email that comes up after that response  
9 from Mr. Said Freiha?

10 A    I do.

11 Q    Can you read that, please.

12 A    The response states: Dear Jean, sorry to bother you with  
13 the below but both for internal KYC and credit purposes can  
14 you please help us with the following: Was there a bidding  
15 process on the EEZ project, question mark. Can you please  
16 give us the background.

17                    Given that Abu Dhabi MAR's expertise is mainly in  
18 shipbuilding, is this new business for you and, if so, how are  
19 you getting the expertise.

20                    Surjan, Ed, do you have other questions?

21 Q    Can you read his response to Jean Boustani. It's a  
22 lengthy email, maybe you can read the first four paragraphs.

23 A    Sure.

24                    Hi Said, the EEZ project in Mozambique was, quote,  
25 created by Abu Dhabi MAR. Meaning that through our high level

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1 connections we managed to persuade the authorities to protect  
2 their EEZ and their natural resources. The process started  
3 more than a year ago. Then we have been requested to design  
4 the concept and to send them the proposal.

5 The budget was decided by the authorities based on  
6 our advice in order to cover the full territorial waters.

7 For their privacy and security purposes and due to  
8 the above mentioned facts, we have been selected to execute  
9 the project. A private tendering process occurred for the  
10 selection of the different hardware equipment. Whereby  
11 various suppliers have been invited to do supply the best  
12 equipment for the best price. We acted like an advisor for  
13 the authorities.

14 MR. MEHTA: Can we go to 2758. I believe that's not  
15 been offered yet, Your Honor, so I offer it now.

16 THE COURT: Any objection to 2758?

17 MR. JACKSON: No objection, Your Honor.

18 THE COURT: It's admitted. It is the last document  
19 of the day, ladies and gentlemen.

20 MR. MEHTA: Yes, Your Honor.

21 Can you blow it up, sir.

22 (Government Exhibit 2758, was received in evidence.)

23 (Exhibit published.)

24 Q Can you read the email, sir, from the defendant?

25 A This is an email from Jean Boustani to Najiallam@me.com,

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1 sent April 8, 2014 with the subject line regarding invoice.

2 125 for all for everything.

3 Less: 60 still for A.

4 Total is 65.

5 Spread was: A: 4 on account.

6 Teo: 8.5.

7 Bruno: 8.5.

8 Chopstick: 7.

9 Esalt: 3.

10 Ros: 15.

11 Ros 2: 1.

12 Professor: 1.

13 Euge: 1.

14 Inro: 1.

15 DG: 13.

16 NUY: 2, which we did for the SMS I sent you 10 days  
17 ago.

18 All is done except: Five still for DG which we will  
19 split 1.7/1.7/1.6.

20 And 2 for Esalt.

21 Q Can you scroll down and just see what the response is  
22 from to the earlier emails. Can you go all the way to the  
23 bottom and stop right there.

24 Can you read the email that's forwarded from the  
25 defendant from Manuel Jorge?

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1 A Email from Manuel Jorge to Jean Boustani, on April 8th,  
2 2014 forwarding invoice for three beijos.

3 Q And the response from the defendant?

4 A Please let's do one Isalt or Esalt, her total is 2.

5 We do only one for now please.

6 Q And the next email, please.

7 A From Najib Allam to Jean Boustani. Hi, with me Esalt is  
8 zero.

9 Q Next email, sir, from the defendant Jean Boustani.

10 A Question mark. For EMATUM, exclamation mark. There must  
11 be a mistake. There should be two for her.

12 Q And finally, the last email before we got to the email  
13 before from the defendant?

14 A You still have the paper I handed you in France, question  
15 mark.

16 MR. MEHTA: We'll stop there, Your Honor.

17 THE COURT: We will indeed.

18 Ladies and gentlemen of the jury, it's 5 o'clock.  
19 Enjoy your weekend. Do not talk about the case and we will  
20 see you on Monday at 9:30. Thank you.

21 THE COURT: And, sir, you will not discuss your  
22 testimony with anyone during the break. We will see you  
23 Monday morning at 9:30 to resume your examination.

24 THE WITNESS: Yes, sir.

25 THE COURT: Have a good weekend everyone.

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1 JURY: Thank you, Your Honor.

2 (Jury exits courtroom.)

3 THE COURT: You may be seated. The jury has left  
4 the courtroom, the defendant is still present. Do we have any  
5 issues to address with counsel before we adjourn for the  
6 weekend?

7 MR. BINI: Not from the government.

8 THE COURT: For the defense?

9 MR. JACKSON: None from us, thank you, Your Honor.

10 THE COURT: Have a good weekend, see you at 9:30.

11 MS. MOESER: Thank you, Your Honor.

12 MR. BINI: Thank you, Your Honor.

13 THE COURT: Thank you.

14 (Whereupon, the trial adjourned at 5:00 p.m. to  
15 resume Monday, October 28, 2019 at 9:30 a.m.)

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